

KAMS610007462021



IN THE COURT OF I ADDITIONAL CIVIL JUDGE AND
J.M.F.C AT PERIYAPATNA

PRESENT:

Smt.Vidya,A.S.
I Additional Civil Judge & J.M.F.C.,
Periyapatna

Dated this the 31st day of July, 2026.

Original Suit No.102/2021

Plaintiff	H.R.Ravikumar, S/o.K.H. Krishna Murthy, Aged about 47 years, R/o:Vidyanagar Layout, Hasan City and District.
Defendants	1. K.H.Krishna Murthy, S/o.Late Hanumantha Shetty, Aged 70 years, 2. Nethravathi, Aged 49 years, W/o.Vasu, Both are R/o:Kampalapura Village and Post, Ravanduru Hobli, Periyapatna Taluk.

	3. Vasu @ Srinivasa.K., S/o.K.H. Krishnamurthy, Aged about 45 years, R/at:Shankaracharya Road, Vidyanagar, Hassan City and District. 4. Anand, S/o.K.H. Krishnamurthy, Aged 43 years, R/o:Hunasanakere Beedhi, Hassan City and District. 5. Smt. Jagajabi.B., W/o.Late Kamal Saheb, Aged 73 years, R/at:Echuru Village, Bettadapura Hobli., Periyapatna Taluk.
	Rank of the Parties On I.A.VII
Applicant:	H.R.Ravikumar
	(Rep.by Sri.STK-Advocate)
Opponent	K.H. Krishnamurthy and others
	(Rep.by Sri.NK-Advocate for defendants)
Provision	U/o VI Rules 17 R/w. Sec.151 of CPC.
Relief sought for	Plaint Amendment
Application date	19.06.2026

Application No.	VII
Objection/memo filed on	04.07.2026
Order passed on	31.07.2026

ORDER ON I.A. NO.VII

During trial stage this application is filed by the plaintiff under Order VI Rule 17 R/w. Section 151 of the Code of Civil Procedure seeking amendment of the plaint by incorporating certain schedule properties which, according to the plaintiff, were inadvertently omitted at the time of filing the suit.

2. Per contra, the defendant has filed objections contending that the application is not maintainable. It is contended that the suit is now posted for the cross-examination of PW.1 and that the present application has been filed only to protract the proceedings. It is further contended that the proposed amendment seeks to introduce new properties, thereby changing the nature

and cause of action of the suit. It is also urged that the trial has already commenced and the plaintiff has not shown due diligence as required under the proviso to Order VI Rule 17 of CPC. Hence, the defendant has sought dismissal of the application.

3. Heard the argument of the learned counsel for the plaintiff and defendant. Perused the material on record.

4. Now, the following points arise for consideration of this Court are:

Point No. 1: Whether the plaintiff has made out sufficient grounds to allow the amendment of the plaint under Order VI Rule 17 read with Section 151 of the Code of Civil Procedure ?

Point No. 2: What order ?

5. The findings of this Court on the above said points are as under:

Point No.1: In the affirmative;

Point No.2: As for the final order

for the following:

REASONS

6. Points No.1 : On perusal of case file, it is seen that the plaintiff has instituted suit for Partition.

7. The plaintiff has specifically stated in the affidavit that while furnishing instructions to the counsel at the time of institution of the suit, certain ancestral properties and the relevant documents were inadvertently omitted, resulting in non-inclusion of some schedule properties in the plaint. It is further stated that the omission came to the plaintiff's notice only recently and that the proposed amendment has been sought without any mala fide intention.

8. It is true that the trial has commenced and the matter is presently at the stage of cross-examination of PW.1. Therefore, the proviso to Order VI Rule 17 of CPC requires the Court to examine whether the plaintiff has exercised due diligence and whether the amendment

could not have been sought before commencement of trial. The proposed amendment is intended to include certain schedule properties which are stated to be ancestral properties forming part of the subject matter of the suit. The nature of the suit continues to remain one for partition and separate possession. Mere inclusion of omitted properties, if they are part of the same alleged joint family estate, would not by itself alter the fundamental character or cause of action of the suit. The question as to whether the properties are in fact joint family properties and whether the plaintiff is entitled to any share therein are matters to be decided only after full-fledged trial.

9. The object of Order VI Rule 17 of CPC is to enable the Court to determine the real questions in controversy between the parties. Refusal of the amendment at this stage may result in multiplicity of proceedings, whereas permitting the amendment would enable comprehensive adjudication of all disputes in one proceeding. Any

inconvenience that may be caused to the defendants can be adequately compensated by costs and by granting them liberty to file additional written statement and to further cross-examine the witness, if necessary. In the facts and circumstances of the case, this Court is of the view that the ends of justice would be met by permitting the amendment subject to payment of costs. Accordingly, this court answered point No.1 in the affirmative.

10. Point No.2: For the aforesaid discussion on point No.1, this Court proceeds to pass the following:

ORDER

The application filed by the plaintiff under Order VI Rule 17 R/w Section 151 of CPC is allowed, subject to payment of costs of Rs.500/- to the defendants.

The plaintiff shall carry out the amendment in the plaint within 15 days

from the date of this order.

The defendants are at liberty to file an additional written statement, if any.

(Dictated to the stenographer, transcribed and typed by her, corrected by me and then pronounced in the open Court on this **31st day of July, 2026**)

(Smt.Vidya A.S)
I Additional Civil Judge & J.M.F.C.,
Periyapatna