

KAMS610013222014



**IN THE COURT OF THE I ADDITIONAL CIVIL
JUDGE AND JMFC, AT PERIYAPATNA**

Present: **Smt.Shwetha.J.** *B.com., L.L.B.,*
I Addl. Civil Judge & JMFC

Dated this the 28th day of February, 2026

O.S.No.160/2014

PLAINTIFF : M.G.MOHAMMED KHASIM

V/s.,

DEFENDANTS : JAMIYA MASJID AND OTHERS

IA.No.24

**APPLICANT/
PLAINTIFF** : M.G.MOHAMMED KHASIM
[By Adv. Sri.GG.,]

V/s.,

**OPPONENT/
DEFENDANTS** : JAMIYA MASJID AND OTHERS
[D1,4 & 5, D.3(a) to (c)
By Adv. Sri.PMR.,]
(D.3-Dead)
(D.2-MCH.,Adv,)

Provision under which IA is filed	Order 8 Rule 9 r/w Sec.151 of CPC
Reliefs sought	Permit him to file rejoinder
Date of filing of application	17.02.2026
Application number	24
Date of filing objections	19.02.2026
Date of order	28.02.2026

ORDERS ON IA.No.24

The plaintiff has filed this application under Order 8 Rule 9 r/w Sec.151 of CPC., praying to permit the plaintiff for filing the rejoinder to the written statement filed by the defendants in the above case.

2. In the accompanying affidavit the plaintiff has contended that he has filed the suit against the defendants for the relief of declaration and permanent injunction. The defendants No.1, 3 to 5 have filed written statement and the defendant No.2 has filed separate written statement. The defendant No.3 is dead during pendency of the suit, the L.Rs of defendant No.3 came on record and they filed additional written statement. In their written statement and additional written statement it is alleged that there is a Gift Deed between themselves in respect of suit property which is false and baseless and totally incorrect and also alleged certain false facts for their convenience. He has got right to oppose the same by filing his rejoinder to the written statement. It is further submitted that the suit property is his absolute property and the defendants

without any basis, concocted the documents and made Gift Deed without any title to the property and in this regard, he has to file reply denying the false contents made by the defendants by way of rejoinder in this case. He has got good grounds to succeed in this case. Hence, it is necessary to permit him for filing the rejoinder by way of subsequent pleadings in this case in reply to the written statements of defendants. If the application is allowed, no prejudice would be caused to the other side. On the other hand, if the application is not allowed, he will be put to great hardship, irreparable loss and injury. Hence, prayed to allow the application.

3. On the other hand, the defendants No.1 to 3 and 5 have filed objections to the effect that the application is not maintainable either in law or on facts and the same is liable to be dismissed. The plaintiff has filed the false application by swearing a false affidavit and he has not made out any reasonable grounds to allow the application. If the application is allowed, the evidence adduced by both parties and the

facts narrated in the rejoinder will create a doubt. Now both side evidence is completed and the case is posted for arguments. At this stage he has come up with this application to drag the proceedings. Hence prayed to dismiss the application.

4. Heard both sides and perused the materials available on record.

5. The point that arise for my consideration is:

“Whether the Applicant has made out grounds to allow him to file rejoinder as prayed in IA.No.24 ?”

6. My answer to the above point is in the **Negative** for the following;

REASONS

7. The plaintiff has filed the present application under Order 8 Rule 9 r/w Sec.151 of CPC which reads as under:-

“ 9. Subsequent pleadings.—No pleading subsequent to the written statement of a defendant other than by way of defence to set-off or counter-claim shall be presented except by the leave of the Court and upon such terms as the Court thinks fit; but the Court may at any time require a written statement or

additional written statement from any of the parties and fix a time of not more than thirty days for presenting the same.”.

8. Thus no pleading subsequent to the written statement of the defendants other than by way of defence or counter claim shall be presented to the Court except by the leave of the Court.

9. The Counsel for the plaintiff has relied upon a decision reported in **2019(4) KCCR 3032 of Hon’ble High Court of Karnataka in between Krishnamurthy Vs. Hanumakka and others** which reads as follows:-

“ The impugned order proceeds on a wrong legal premises presumable because of conflicting decisions of three Co-ordinate Benches of this Court on the one hand and the decision of one other Co-ordinate Bench and therefore, cannot be sustained. After all, granting of leave to the petitioner/plaintiff to file Additional Pleadings by way of Reply/Replication to the contentions in the Written Statement would prejudice none. Conversely, denial of leave is likely to prejudice the petitioner/plaintiff, although the non-denial by him of the contentions in the Written Statement would not amount to their admission

at all as held by the Apex Court vide AIR 2009 SC 961, para.31)”

10. By relying on the above citation, the Counsel for the plaintiff has argued that no prejudice would cause to the defendants if the application is allowed.

11. In the instant case, the Applicant was impleaded L.R's of defendant No.3 as defendant No.3(a) to 3(c). The rejoinder is filed by the plaintiff in two sets i.e., first rejoinder against the written statement filed by the defendant No.1, 3 to 5 and the second rejoinder against the written statement filed by the defendant No.2.

12. On perusal of the above rejoinders, the plaintiff by mentioning the averments in the written statement has denied the same as false and incorrect and further denied that the Gift Deed executed is without any valid title, hence the same is void abinitio. It is further stated in every paragraphs of the re-joinder as concocted by the defendants for the sake of their convenience and without any supporting documents. The above said denials is not additional pleadings.

13. Further at para 12 in the rejoinder filed by the plaintiff to the written statement filed by defendant No.1,3 to 5, it is stated as below:-

“ 12. The plaintiff herein in submits that the defendants in one breath deposed to the facts that the property which is claimed by the defendants is located in the Gramathan and in another breath DW.1 deposed that their property (Masjid property) is situated in Sy.No.13 of Koppa Village, Haranahalli Hobli which is the Government land and to that extent the plaintiff has produced RTC which is shown as Government Bheelu. But the suit Survey number is running from riverbed of Kaveri River and ends in Koppa village. As such, the property which the defendant are claimed is unidentified by one and the defendants are themselves is ignorant as to the location of their property. Hence, the defence set up by the decedents is not worth to believe that their property is well within suit schedule Sy.No.15. ”

14. The above said contents in Para 12 of the rejoinder by the plaintiff have arised out of the cross examination of DW.1 and the above said contents are arguable point and considering along with main matter.

There is no additional pleadings by way of reply/replication to the contentions in the written statement of defendant No.1, 3 to 5.

15. The another rejoinder filed by the plaintiff to the written statement filed by defendant No.2 would also contain the denials as false, incorrect and concocted. At paras 2, 3, 10, 11 of the said rejoinder, the plaintiff has stated as under:-

“2. As alleged by defendant, the Panchayath Demand Register entries are made without having any valid title, same are void documents are created to make unlawful gain. Further the change of khata made by Koppa Grama Panchayathi is without any basis and same is fraudulent one.

3. The suit schedule property is comes in the limits of Revenue land and the Grama Panchayathi had no locus to make entries in their records. Even though at the instigation of one Khader Mohideen the fraudulent records are created and continued. Hence, the same is are no value in the eye of law and void abinitio.

10. Each and every contention and averment made against the plaintiff by the defendant which are not specifically admitted

by this plaintiff are all hereby denied as false and incorrect.

11. The defendant suppressed the true facts at the instigation of Khader Mohideen and not approached before this Hon'ble Court with clean hands."

16. The above said grounds are not said to be the additional pleadings. The contention raised by the defendants in their written statement were asserted by them. Therefore, the burden is on the defendants to prove their contentions. The parties have to prove their respective pleadings with sufficient evidence. Mere non denial of said contention by filing rejoinder is not proof of defence.

17. It is worth to note that the defendant No.3 to 5 have filed their written statement on 22.09.2014 itself. Whereas the defendant No.2 has filed written statement on 11.11.2014 itself. In their written statement, the defendants have not sought for counter claim. When the case posted for arguments, the present application is filed. The plaintiff has not stated any reasonable grounds for the delay. For these reasons and also non pleading of additional grounds in

the rejoinder/reply, the application is liable to be dismissed. With these observations, the point under determination is answered in the ***Negative***.

18. In the result, I proceed to pass the following:-

ORDER

IA.No.24 filed by the Applicant/ Plaintiff under order 8 Rule 9 r/w Section 151 of CPC., is hereby dismissed with costs of Rs.500/-.

The rejoinder/reply are not taken on record.

For arguments by 05/03/2026.

(Dictated to the Stenographer directly on computer, corrected and then pronounced by me in the open court, this the 28th day of February 2026)

(SHWETHA.J)

I Addl. Civil Judge and JMFC
Periyapatna