

KAMS710000652022



**IN THE COURT OF THE PRINCIPAL CIVIL JUDGE &
J.M.F.C., AT T.NARASIPURA**

Dated this the 17th day of March 2026

:PRESENT:

Sri. SACHIN .H.R, BA. L L B.,
Prl. Civil Judge & JMFC., T.Narasipura.

O.S.No.17/2022

PLAINTIFF/s : Smt.Siddamma

(By Sri.S.J., Adv.)

V/s

DEFENDANT/s : Sri.T.H.Mahadeva & others

(By Sri.B.M.N., Adv.)

I.A.No.V

APPLICANT/S : Smt.Siddamma (plaintiff)

V/S

OPPONENT/S : Sri.T.H.Mahadeva & others (defendants)

ORDERS ON I.A.No.V

*The Applicant/Plaintiff has filed I.A.No.V under Order 6
Rule 17 of CPC seeking to cause proposed amendment to*

the plaint schedule seeking for deletion of the plaint prayer of permanent injunction and seeking for the relief of Declaration and possession as prayed for in the interest of justice and equity.

2. In support of the sail application the plaintiff has filed her duly sworn affidavit and as stated that the plaintiff has filed this suit on her behalf and on behalf of her sons and daughters. That the revenue records are standing in her name and that she is in possession of the suit schedule property. But during the course of her evidence she has deposed that the defendants are cultivating her said land. That the possession over the suit schedule land by the defendants does not take away her right over the suit schedule property and that the defendants are trying to grab her property though they have no right over the said land. That the proposed amendment does not alter the true scope and nature of the suit and she has established her title over the suit land and thus she has come up with the higher relief of declaration of title and possession. Hence prays to allow the application.

3. Per contra, the defendants have filed their objections and have contended that, the application filed by the plaintiff is not maintainable. That in the course of her cross examination the plaintiff has admitted that the defendants are in possession of the suit schedule property adverse to her case and thus now she has come up with the proposed amendment to the plaint which is not tenable under the law. That the plaintiff had earlier filed the suit for the relief of permanent injunction and now by deleting the said prayer is seeking for the relief of declaration and possession which is not at all permissible under the law. Hence prays to dismiss the application.

4. Heard arguments by the learned counsel for both the parties and perused the materials available on record.

5. The following points arise for my consideration:-

1. Whether the said application deserves to be allowed?

2. What order?

6. My answers to the above points are as follows:-

*Point No.1 : In the **Negative,***

*Point No.2 : As per the final order,
for the following: -*

REASONS

7. POINT No.1:- *The plaintiff has filed this suit seeking for the relief of permanent injunction against the defendants. After issuance of suit summons, the defendants have appeared through their counsel and have filed their written statement and accordingly issues were framed and the plaintiff has led her evidence and when the matter is posted for further chief examination of D.W.1, the plaintiff has come up with the present application seeking to cause proposed amendment to the plaint by deleting the earlier prayer of permanent injunction and by seeking the relief of declaration and possession as prayed for.*

8. *That it is the specific case of the plaintiff that one Siddegowda S/o Ganjam Rachegowda who is her father was the absolute owner of the suit schedule property and he had executed the registered Gift deed dated 01.12.1975 in favour of the plaintiff by name Siddamma and her husband by name T.Lingegowda and put them in possession of the suit schedule property and as such the*

plaintiff and her husband were the absolute owner in possession of the suit schedule property. Such being the case the defendants having no manner of right over the suit schedule property are illegally interfering into her peaceful possession and enjoyment of the suit schedule property by the plaintiff and her family members in order to knock off the suit schedule property and hence the plaintiff has filed this bare injunction suit.

9. *Such being the case now the plaintiff is seeking to delete the prayer of Permanent injunction and to insert the prayer of declaration and possession only on the ground that she had admitted the possession of the defendants over the suit schedule property in the course of her cross examination. That nowhere in the plaint it is pleaded that the defendants are in possession of the suit schedule property and nowhere in the plaint it is pleaded that the defendants have illegally dispossessed the plaintiff from the suit schedule property. It is the clear case of the plaintiff that the defendants having no manner of right over the suit schedule property are interfering into her right over the suit*

schedule property. Thus it is crystal clear from the said act of the plaintiff discloses that she has filed this false suit alleging false interference by the defendants. Anyhow seeking for the proposed reliefs by way of amendment which are quite opposite to the pleadings is not permissible under the law. Further unless disclosing the date of dispossession of plaintiff from the suit schedule property by the defendants the present application is not maintainable.

*10. Further the proposed amendment is not in nexus with the cause of action which had led to file this suit and further the proposed amendment completely change the scope and nature of the suit. Hence the instant application is absolutely devoid of merits as put forth by the defendants and is absolutely not maintainable under the law after commencement of trial as the proposed amendment fundamentally alters the nature of the suit. **Accordingly, I am inclined to answer the point No.1 in the Negative.***

POINT No.2:

11. In the light of my due discussions on point No.1, I proceed to pass the following:

ORDER

*The I.A.No.V filed by the Plaintiff
/Applicant U/O.6 Rule 17 of C.P.C., is
hereby rejected on cost of Rs.1,500/-.*

***(Dictated to the Stenographer, on computer and computerized by
her, corrected by me, and then pronounced in the open Court on this the
17th day of March, 2026.)***

(Sachin H.R.)
*Prl.Civil Judge & J.M.F.C.,
T.Narasipura.*

*(Order is pronounced in the open court
vide separate order)*

ORDER

*The I.A.No.V filed by the
Plaintiff /Applicant U/O.6 Rule 17
of C.P.C., is hereby rejected on cost
of Rs.1,500/-.*

*For further chief examination of
D.W.1 finally by 02.06.2026.*

***Prl. Civil Judge & J.M.F.C.,
T.Narasipura.***

