

Amendment sought for:

After para-10 the following new paragraph numbered as 10(A) may kindly be ordered to be inserted which is as follows:-

10(A) It is submitted by plaintiff that the defendant No.4 was under took construction work in my property which is mentioned in the plaint, in the mean time I have tried my level best to stop the illegal construction work under took by the defendant No.4, and simultaneously the defendant No.4 is claiming rights over the suit schedule property illegally. When I demanded the defendant No.4 to produce proof of his ownership, the defendant No.4 did not oblige and refused to answer. However, the acts of interference are being repeated. I have approached the jurisdictional police for protection of plaintiff property in this matter the jurisdictional police neither protected nor valued my title over the property and rights over the property. It is further learnt by the plaintiff is that the defendant No.4 was purchased one site property from the 1st defendant on 10/10/2011. The 1st defendant without having any valid title or rights over the property he has sold the same the property sold by the 1st defendant is different and the

plaintiff property is deferent, based upon the words of the 1st defendant the defendant No.4 started to up structure in plaintiff property. As such there is no existence of the property as showed in the sale deed dated 10/10/2011. The 1st defendant and the 4th defendant are crated a bogus and fraudulent documents based on the said illegal documents they are interfering with my peaceful possession and enjoyment of the property.

In the plaint prayer column:-

In the plaint prayer column entire serial No.d) relief to be deleted and in its place as prayer.

d) for the relief of declaration that the sale deed dated 10/10/2011 executed by the 1st defendant in favour of the 4th defendant does not clothes the right of the plaintiff in any manner over the suit schedule property.

In prayer a) first line 1st defendant should be deleted and in it's place defendant No.1 and 4 to be added.

2. In the accompanying affidavit, the plaintiff has stated that, he has filed the present suit against the defendants for the relief of declaration. The suit schedule property is his

own property. In order to corroborate his contention and to give clarity regarding the existence of property, he is proposing the amendment as sought in the application. During the pendency of the proceedings, the defendant No.4 started the construction work in his property which is mentioned in the plaint, hence has tried to stop the said illegal construction and simultaneously the defendant No.4 claiming rights over the suit schedule property illegally. Hence, he has approached the jurisdictional police for protection of his property but the police neither protected nor valued the title over the suit schedule property. The defendant No.1 without having any right or title, sold the same. The property sold by the defendant No.1 and his property are different. Only on believing the words of the defendant No.1, the defendant No.4 has started to construct his property. As such there is no existence of property as shown in the sale deed dated 10/10/2011. The defendant No.1 and 4 have created forged documents and interfering with his peaceful possession and enjoyment of the property. Further the proposed amendment will not change or alter the nature. The proposed amendment is just and necessary to elucidate the matter in controversy more effectively. Hence, prays to allow the application.

3. In spite of sufficient opportunity, the defendants have not filed objections to the application. Hence objection is taken as not filed.

4. Heard the argument of counsel for plaintiff.

5. The following points are arise for my consideration:

1) Whether the proposed amendment is necessary for determining the real question in controversy between the parties?

2. What Order?

6. Perused the documents available on record.

7. My answer to above points are as under:

Point No.1 : In the Affirmative

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

REASONS

8. Point No.1: The plaintiff has filed the suit seeking for the reliefs of declaration and for permanent injunction in respect of the suit schedule property. The defendant No.4 has filed the written statement by denying the claim of the plaintiff. When the matter is posted for further cross of D.W.1, the

plaintiff has filed IA.No.16 under Order 6 Rule 17 of CPC. Subsequently, the counsel for the plaintiff filed a memo seeking for withdrawal of IA.No.16 and it was allowed and said IA was dismissed. Thereafter, the plaintiff has filed the present application seeking for amendment of the plaint by inserting a para about of interference of defendant No.4 to the suit schedule property and also deletion of prayer No.1d in the prayer column and insertion of a new prayer for declaration of sale deed dated 10/10/2011. The defendants have not filed objections.

9. On perusal of the records available it discloses that, the plaintiff has sought for the relief of permanent injunction against defendant No.1 and declaration about the letter issued by defendant No.3 and also for damages. Originally, the suit was filed against defendants No.1 to 3 and subsequently defendant No.4 was impleaded in the case. The amendment sought by the plaintiff will not change the nature of the suit nor cause of action.

10. In spite of several opportunity granted, the defendants have failed to file objections. The amendment sought in the application is about insertion of a para about interference of defendant No.4 to the suit schedule property and also

deletion of prayer No.1d in the prayer column and insertion of a new prayer for declaration of sale deed dated 10/10/2011. Therefore, the entire burden is on the plaintiff to prove that the said property is ancestral and joint family properties of the parties.

11. Thus, in order to render justice to parties and in order to determine the dispute among the parties, it is necessary to allow the application. If the application is allowed, the burden is on the plaintiff to prove the amendment sought in the application. The defendants have got an opportunity to file additional written statement and have got opportunity to cross examine the plaintiff on the amendment sought in the application. In order to avoid multiplicity of proceedings, it is just and necessary to allow the application. **Hence, this court proceeds to answer Point No.1 in the Affirmative.**

12. Point No.2: In view of the answer and reasons stated in point No.1, this Court proceed to pass the following;

ORDER

The IA No.18 filed by plaintiff under order 6 Rule 17 of C.P.C is hereby allowed on cost of Rs.500/- and thereby

permitted the plaintiff to amend the plaint and to file amended plaint.

[Dictated to the Stenographer, transcribed by her and corrected by me and pronounced in the Open Court on 23rd day of September 2025]

**I Addl., Civil Judge & JMFC.,
T.Narasipura.**

(Order pronounced in open court vide separate order)

ORDER

The IA No.18 filed by plaintiff under order 6 Rule 17 of C.P.C is hereby allowed on cost of Rs.500/- and thereby permitted the plaintiff to amend the plaint and to file amended plaint.

**I Addl.Civil Judge & JMFC.,
T.Narasipura.**