

V.	The date on which the objections are filed by different opponents	12/01/2026
vi.	The date on which the orders were passed on the said application	24/02/2026

Order on IA No.27 filed under order VI Rule 17 of CPC

1. The plaintiff No.1(a) has filed this application seeking to permit him to amend the plaint as mentioned hereunder:

Amendment sought for:

To incorporate the proposed amendment after the Para No.4 of the plaint.

4[a]. Be that as it, the father of the plaintiff had mortgaged the suit schedule property in favour of one person by name Chennabasamma w/o Madegoda on 31/07/1958 same was registered before the office of the sub register on 31/07/1958 and the contents of the mortgage deed reveals that the period of mortgage is in force only for two years and the mortgage amount of rupees 100/- shown in the said deed in relation to the suit schedule property. Thus the said

mortgage deed reveals that the father of the plaintiff had got title, right, interest over the suit schedule property.

4[b]. Thereafter on the basis of the sale deed dated: 03/03/1922, the name of the father of the plaintiffs had been entered in the index of land under the records of right No.417 in connection with suit schedule property. Then in pursuance of the records of rights, the name of the father of the plaintiffs also transferred in R T C in column No.12 from the 1986 to 1998-99 in relation to the suit schedule property which shows that the father of the plaintiff is an owner of the suit schedule property and he was in possession and enjoyment of the suit schedule property by way of cultivation. After death of the father of the plaintiffs have been in possession and enjoyment of the suit schedule property and they are growing crops over the suit schedule property by way of cultivation and the encumbrance certificate from the year 01/04/1970 to 31/03/2004 reveals that there is no transaction taken place in connection with the suit schedule property at the relevant point of time.

2. In the accompanying affidavit, the plaintiff No.1(a) has stated that he has adduced the evidence and produced mortgage deed dated 31/07/1958, index of land, two RTC and

also encumbrances certificate in connection with the suit schedule property on 03/12/2025 which has been marked as Ex.P6 to 10. The said documents discloses that his father has got right, title and interest over the suit schedule property. Further there is no pleading in the plaint in relation to the said documents for the reasons that the said documents were not available with him at the time of filing of the suit. Hence, he has not pleaded the pleadings in the plaint about Ex.P6 to 10. Then, after completion of cross examination of defendant, he has found the documents and produced before the Court. In fact at the inception he did not give the instruction to his counsel to incorporate the proposed amendment in the plaint at the earliest point of time for the reason that the said documents are not in his custody. Further, due to lack of legal knowledge, he has not given information at the earliest. Hence, at this stage it is necessary to amend the plaint. Hence, prays to allow the application.

3. Per contra, the defendants No.4 and 5 have filed objections to the above application and contended that during the course of evidence, mortgage deed dated 31/07/1958 is produced along with other documents and same were marked

as Ex.P6 to 10. But the contention taken by the plaintiff that he has not pleaded anything about the said documents in the plaint, is false. Further, the proposed amendment is not at all necessary. There is sufficient materials on record to dispose of the case on merits. Hence, prays to dismiss the application with costs.

4. Heard the argument of counsel for both parties.

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 relief of declaration and permanent injunction in respect of

suit schedule property. The defendants have filed the written statement by denying the claim of the plaintiff. When the matter is posted for arguments on main matter, the plaintiff No.1(a) has filed the present application seeking for the amendment of the plaint. The defendants have filed the objections.

9. In the affidavit the plaintiff No.1(a) has stated that, he has produced Ex.P6 to 10 recently. But there is no pleading in the plaint about Ex.P6 to 10, since the said documents were not available with him while filing the suit and hence no pleading was pleaded in the plaint in relation to Ex.P6 to 10 and after cross examination of D.W.1, he has searched the documents before competent authority and obtained and produced before the Court. In the absence of pleadings, mere evidence is not sufficient and it cannot be considered. Hence, he has filed the present application.

10. The defendants have filed objections by denying the present application.

Order 6 Rule 17 of CPC reads as follows:

“The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in

such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties.

Provided that no application for amendment shall be allowed after the trial has commenced, unless the court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial”

11. In view of the above provision, the amendment of the pleadings after commencement of evidence of the parties, cannot be permitted without due delinquency. But in the case on hand, both side evidence completed. Ex.P6 to 10 are marked recently. But, there is no pleading in the plaint about Ex.P6 to 10. The plaintiff No.1(a) has explained the reason in delay for filing of the above application.

12. The counsel for the plaintiff has relied upon the decision passed by the Hon'ble Supreme Court in Civil Appeal No.5909/2022 in **Life Insurance Corporation of India Vs Sanjeev Builders Private Limited**, in which the Hon'ble Apex Court has held as under:

“(ii) All amendments are to be allowed which are necessary for determining the real question in controversy provided it does not cause injustice or prejudice to the other side. This is mandatory, as is apparent from the use of the word “shall”, in the latter part of Order VI Rule 17 of the CPC.

(iii) The prayer for amendment is to be allowed.

(i) if the amendment is required for effective and proper adjudication of the controversy between the parties, and

(ii) to avoid multiplicity of proceedings, provided

(a) the amendment does not result in injustice to the other side,

(b) by the amendment, the parties seeking amendment does not seek to withdraw any clear admission made by the party which confers a right on the other side and

(c) the amendment does not raise a time barred claim, resulting in divesting of the other side of a valuable accrued right (in certain situations).

(iv) A prayer for amendment is generally required to be allowed unless

(i) by the amendment, a time barred claim is sought to be introduced, in which case the fact that the claim would be time barred becomes a relevant factor for consideration,

(ii) the amendment changes the nature of the suit,

(iii) the prayer for amendment is malafide, or

(iv) by the amendment, the other side loses a valid defence.

(v) In dealing with a prayer for amendment of pleadings, the court should avoid a hypertechnical approach, and is ordinarily required to be liberal especially where the opposite party can be compensated by costs.

(vi) Where the amendment would enable the court to pinpointedly consider the dispute and would aid in rendering a more satisfactory decision, the prayer for amendment should be allowed.

(vii) Where the amendment merely sought to introduce an additional or a new approach without introducing a time barred cause of action, the amendment is liable to be allowed even after expiry of limitation.

(viii) Amendment may be justifiably allowed where it is intended to rectify the absence of material particulars in the "plaint".

13. In the present case, the amendment sought by the plaintiff is about insertion of a para in the plaint about the mortgage deed executed by father of the plaintiff and also relevant entries entered in index of land and RTC. The said amendment would not change the nature of the suit or cause of action. Though the plaintiff has produced Ex.P6 to 10, but there is no pleading in the plaint about the said documents. As per the decision of Hon'ble Supreme Court, that delay in applying for amendment alone is not a ground to disallow the prayer. Though the application is filed at belated stage but the reason mentioned in the affidavit is sufficient to show that why the amendment is necessary in the case. If the application is allowed, no prejudice will cause to the other side.

14. Hence, in order to avoid multiplicity of proceedings, it is just and necessary to allow the application. If the application is allowed the burden is on the plaintiff to prove the amendment sought in the application. If the application is allowed no prejudice will cause to the defendants. The defendants have got the opportunity to file additional written statement. **Hence, this court proceeds to answer Point No.1 in the Affirmative.**

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

ORDER

IA.No.27 filed by plaintiff No.1(a) under Order 6 Rule 17 of C.P.C is hereby allowed on cost of Rs.1,000/- and thereby permitted the plaintiff No.1(a) 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 24th day of February 2026]

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

(Order pronounced in open court vide separate order)

ORDER

IA.No.27 filed by plaintiff No.1(a) under Order 6 Rule 17 of C.P.C is hereby allowed on cost of Rs.1,000/- and thereby permitted the plaintiff No.1(a) to amend the plaint and to file amended plaint.

**I Addl.Civil Judge & JMFC.,
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