

KAMS710004062018



**IN THE COURT OF I ADDITIONAL CIVIL JUDGE AND**  
**JMFC AT T.NARASIPURA**

**Dated this the 23<sup>rd</sup> day of September 2025**

Present: **Smt. Niveditha N., B.A.L., LL.B, LL.M.,**  
**I Additional Civil Judge & JMFC., T.Narasipura.**

**O.S./68/2018**

Applicant: **Krishnegowda**  
..... plaintiff

V/s

OpponentS: **Channegowda and Others**  
..... defendants

**Order on IA No.17 filed under order VI Rule 17 read with**  
**section 151 of CPC**

The plaintiff has filed IA No.17 under Order VI Rule 17 read with section 151 of CPC seeking to permit him to amend the plaint as mentioned hereunder:

Amendment sought for:

1. At page No.3 of the plaint after Para No.10 the following Para No.11 is to be inserted.

Para 11:- It is further submitted that during pendency of the above suit the defendant No.2 under the false and misrepresentation has obtained a part of the grant from the P.D.O of Rangasamudra Grama Panchayath in the name of her wife Roopa and thereby unlawfully constructed R.C.C house towards the South West Corner of the suit schedule property without the consent of the plaintiff without the permission of this Hon'ble Court. Due to which the plaintiff got issued a legal notice dated 25-02-2019 to defendant No.2 and his wife Roopa along with P.D.O and President of Rangasamudra Grama Panchayath even prior to constructed unlawful building by the defendant No.2 with an extent East to West 35 feet and North to South 25 feet which is liable to be demolished through the process of this Hon'ble Court. Similarly during pendency of the above suit the 1<sup>st</sup> defendant unlawfully cut and removed the Teak Wood Tress grown in the suit property and sold it away for a value of Rs.1 Lakh as per the information obtained by the

plaintiff. And as such the defendant No.1 is liable to pay the said amount to the plaintiff by way of Mesne Profits.

1. At Page No.4 in the prayer of the plaint the following additional prayer to be inserted as relief as prayer(e):-

Prayer e):- For Mandatory Injunction directing the defendant No.2 to demolish the unlawful R.C.C construction erected by him towards the South-West corner of the suit schedule property to an extent measuring East to West 35 feet and North to South 25 feet at his own cost. Failing which the said construction is to be demolished through the process of the Hon'ble Court.

2. In the accompanying affidavit, the plaintiff has stated that, he has filed the above suit against the defendants for the relief of declaration and possession in respect of the suit schedule property as prayed for in the plaint. Now the above case is posted for arguments on main matter. While preparing the arguments on main matter it is came to the knowledge of his counsel that subsequent events taken place during pendency of the above suit which are very much necessary to plead in the plaint before commencement on

arguments on main matter to bring the conducts of the defendant No.1 and 2 for the kind notice of this Court supported by the documentary evidence which are not at all in existence at the time of filing of the above suit. Hence, the accompanied application is filed praying the Court to permit him to amend the plaint properly to insert subsequent event and additional relief for effective adjudication of the case on hand and to determine the real questions in controversy between him and the defendants in respect of the suit schedule property.

b. Further it is submitted that, the proposed amendment will neither change the nature of plaint nor change the cause of action nor other side will put into surprise. This Court vest with ample powers to consider the amendment application at stage of arguments under the facts and circumstances of the case and as such if the application is allowed, no hardship and inconvenience will be caused to other side. Hence prays to allow the application.

3. Per contra, the defendant No.1 has filed objections to the above application by denying all the allegations made in the application and it is submitted that, the application filed for seeking carryout amendment to the plaint on the ground

that the proposed amendment is subsequent event taking place during the pendency of this case is not maintainable either in law or in facts the same is liable to be dismissed.

b. Further it is submitted that, the plaintiff only with an intention to drag the proceedings file the application seeking amendment from the date of filing of the suit, the plaintiff is in the habit of filing interim applications and the reasons given in the application is false. The case is already posted for argument at this stage he has come up with this application.

c. Further it is submitted that, the proposed amendment sought by the plaintiff is not at all necessary for effective and proper adjudication of matter in dispute. It is false to allege that during pendency of the case, the defendant No.3 under misrepresentation obtained grant from the PDO, Rnagasamudra Grama Panchayath in the name of his wife by name Roopa and thereby unlawfully constructed RCC house towards south west corner of the suit schedule property without the consent of the plaintiff and without permission of this Court. It is false to allege that prior to construction of building the defendant notice is caused. It is false to allege that defendant No.1 unlawfully cut and

removed the teak wood trees grown in the schedule property for value of Rs.1,00,000/- as per information further false to allege that the defendant No.1 is liable to pay the said amount by way of mesne profit. The proposed amendment seeking is introducing prayer for mandatory injunction directed the defendant No.2 to demolish unlawful construction made towards south west corner of schedule property to the extent of east to west 35 feet, north to south 25 feet is not warranted for the reasons stated below.

d. Further it is submitted that, The suit is filed for the relief of declaration that the plaintiff is successor of plaintiff schedule property, relief of possession and also for mesne profit. The suit is resisted by the defendant No.1 by filing written statement. The plaintiff has to establish his title, right over the property in dispute, if he established right title over the plaintiff schedule property automatically entitle for the relief as prayed and hence the application of this nature is not maintainable. The proposed amendment is not at all necessary for proper adjudication of matter in dispute on the other hand the proposed amendment will introduce new case and it is change of nature of the suit. The defence raised by the defendant will take away. This application is

filed only to drag the proceedings. There is no merits in the application. Hence prays to dismiss the above application with cost.

4. Heard the argument of both counsel.

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, possession and mesne profit. The defendants have filed the written statement. When the matter is posted for arguments on main matter the plaintiff

has filed the present application seeking for amendment of the plaint. The defendants have filed objections.

9. On perusal of the records available it discloses that, the plaintiff in the plaint has contended that he is the owner of the suit schedule property and defendants are in permissive possession of the suit schedule property. Hence, he has filed the present suit. In the present application, the plaintiff has sought to include para No.11 and also a prayer in the prayer column above the relief of mandatory injunction. In the affidavit the plaintiff has stated that during the pendency of this case the defendants have constructed RCC house in the suit schedule property without obtaining the permission from this Court and it is subsequent event occurred during the pendency of this case. Hence, it is necessary to narrate the said fact in the plaint and also direct the defendants to remove the construction.

10. On the other hand, the defendants in their objection have stated that the amendment sought in the present application is not necessary in the case and if the application is allowed there will be change of nature of suit and defence raised by the defendants will be taken away. Hence, prays to dismiss the application.

11. This is the suit for declaration and possession. The entire burden is on the plaintiff to prove his case. The amendment sought in the application is subsequent events. Therefore, though the application is at belated stage, an opportunity has to be given to the plaintiff to prove his contention as mentioned in the affidavit. In order to avoid mutiplicity of proceedings, it is necessary to allow the application.

12. The said amendment will not change the nature of suit nor cause of action and it will not taken away the defence of defendants.

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”

13. 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 present case, the amendment sought in the application is subsequent events.

14. 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.**

**15. 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.17 filed by plaintiff under order 6 Rule 17 read with section 151 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 23<sup>rd</sup> day of September 2025]

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

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

**ORDER**

The IA No.17 filed by plaintiff under order 6 Rule 17 read with section 151 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.**