

KAMS710005742017



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

Dated this the 24th day of April 2026

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

O.S./104/2017

Applicant: Guruswamy
..... plaintiff

V/s

Opponents: Suresh
..... defendant

i.	Provision under which the application is filed	Order 6 Rule 17 R/w 151 of CPC
ii.	Relief sought for	Amendment of plaint
iii.	The date on which the application is filed	12/01/2026
iv.	Number of the application	No.20
v.	The date on which the objections are filed by different opponents	02/03/2026
vi.	The date on which the orders were passed on the said application	24/04/2026

ORDER ON IA.No.20 FILED BY THE PLAINTIFF UNDER ORDER VI RULE

17 r/w 151 of CPC

1. The plaintiff has filed this application seeking to permit him to amend the plaint as mentioned hereunder:

Amendment sought for:

1. In the plaint at page-2, para-2, in line No.4 after word ancestral to add “and joint family”.

2. In the plaint at page-2, para-3, in line No.3 after word ancestral to add “and joint family”.

3. After para-2 of the plaint to add para-2(a)

2(a). It is submitted that the plaintiff, the defendant and their father Mallappa together have executed registered sale deed dated:20.06.2003 selling the some of ancestral joint family properties retaining the plaint schedule properties in joint possession and enjoyment.

2. In the accompanying affidavit, the plaintiff has stated that now the case is posted for cross of P.W.1. The defendant is denying his signature and also his father’s signature on partition deed dated 07/06/2007. Before execution of partition deed, there was a registered sale deed dated 20/06/2003, wherein some of ancestral joint family properties have been sold by himself, his father and defendant in favour of others and all are signatories to the said document. Recently he came to know about the registered sale deed dated 20/06/2003 and obtained certified copy of the same and got marked as Ex.P19. But there is no pleading in the plaint in respect of the

said document. Further, the word joint family has been left out in the pleading. Hence, insertion of said things in the plaint is necessary. Hence, prays to allow the application.

3. Per contra, the defendant has filed objections to the above application and contended that the application filed by the plaintiff is not maintainable. The plaintiff and defendant have already examined and got marked the documents and both the counsel have submitted their part of argument. When the case posted for reply of plaintiff counsel, they are filing one or the other application to fill up the lacuna. After submitting argument by the defendant counsel, the plaintiff filed an application for reopen of the case and produced some documents. Now he is trying to withdraw his own admission by way of this amendment. Based on the pleadings of the parties, the Court pleased to frame issue No.2 throwing the burden on plaintiff to prove that the suit schedule properties are ancestral properties. The proposed amendment is not necessary to determine the dispute between the parties. 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. The defendant has filed the written statement by denying the claim of the plaintiff. When the matter is posted for further cross of P.W.1, the plaintiff has filed the present application seeking for the amendment of the plaint. The counsel for defendant filed objections.

9. In the affidavit the plaintiff has stated that, the defendant denied his signature and also signature of his father on Ex.P6 and on 20/06/2003 a sale deed was executed by him and defendant and their father and recently he came to know about the said sale deed and obtained the copy of the sale deed and it was marked in the case but there is no pleading in the plaint about said document. Hence, the present application is filed.

10. The counsel for defendant in his objection has contended that the plaintiff through above application is withdrawing his own admission and after completion of trial, the plaintiff is filing one or the other application to fill up the lacuna. But, the defendant has not explained the withdrawal of admission made by the plaintiff either in the plaint nor oral evidence.

11. When the matter is posted for reply, the plaintiff has filed the application for recall of P.W.1 and for witness examination and it was allowed by this Court and P.W.1 marked Ex.P20 i.e. the sale deed dated 20/06/2003 but there is no pleading about the said sale deed in the plaint. In the plaint, the plaintiff has pleaded that the suit schedule property is the ancestral but not mentioned joint family. Through above amendment the plaintiff intended to add joint family and a para about Ex.P20. In the absence of pleading, the document cannot be relied by the Court. Therefore, the plaintiff has sought to add a prayer in the plaint about Ex.P20. The said amendment is not amounts to withdrawal of admission made by the plaintiff.

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”

12. 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, the delay in filing the above

application is explained. The amendment sought by the plaintiff will not change the nature of the suit nor cause of action. 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 defendant. **Hence, this court proceeds to answer Point No.1 in the Affirmative.**

13. 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.20 filed by plaintiff under Order 6 Rule 17 R/w 151 of C.P.C is hereby allowed on cost of Rs.2,000/- 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 24th day of April 2026]

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

(Order pronounced in open court vide separate order)

ORDER

IA.No.20 filed by plaintiff under Order 6 Rule 17 R/w 151 of C.P.C is hereby allowed on cost of Rs.2,000/- and thereby permitted the plaintiff to amend the plaint and to file amended plaint.

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