

IN THE COURT OF THE SENIOR CIVIL JUDGE & J.M.F.C.,
DEVADURGA

Present:
Sri.Suresh Annappa Savadi., B.A., L.L.B., (SPL).,

Senior Civil Judge & JMFC, Devadurga.

O.S.No.108/2023

DATED : THIS THE 10th DAY OF SEPTEMBER 2025

Plaintiffs: Sri.Raghavendra S/o. Ramachar

(By Sri.S.K.P., Advocate)

--V/s--

Defendants: Sri.Veerahadrashivacharyaru Bicchai
Mahasansthana and others.

(By Sri.B.S.D. advocate)

Provision under which the application is filed	U/o. 6 rule 17 of C.P.C.
Relief sought for	For amendment of plaint by inserting para no.5(a) and (b) and also add prayer in the prayer column.
The date on which the application is filed	29.01.2025
Number of the application	IA No.V
The date on which the objections are filed by different opponent	14.07.2025

The date on which the orders were passed on the said application	10.09.2025
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ORDER ON IA NO.V

The SKP advocate for plaintiff filed IA No.5 U/o.6 rule 17 of CPC for amendment of plaint by inserting para no.5(a) and (b) and also add prayer in the prayer column.

2. In the affidavit GPA holder contended that his father initiated the suit for the relief of declaration and injunction in respect of suit property. In the plaint plaintiff taken contention regarding the situation of the property and its supervision by the archaeological department and also clearly stated that the panchayat record will speaks that said property is in the name of plaintiff. During the pendency of the appeal before 1st Addl. District and Session judge, Raichur in MA No.2/2024 the defendants have started illegal construction activity in the suit premises. The District Judge court stayed the TI order issued by this Hon'ble court and after such stay order the defendants started illegal construction activity in the suit premises and wants to construct the rooms and also compound wall which is against the archaeological act. Later the archaeological department had interfered the matter and now the construction activity which is almost in the roof level was temporarily stopped. Even the police people in the observation not to make

any illegal construction in the suit premises. The said facts is to be pleaded in the plaint and also in view of changed circumstances plaintiff has to seek for mandatory injunction and also plaintiff seeking the amendment of pleadings of mandatory injunction. Hence the alleged amendment is necessary for proper adjudication of the case. Hence prays to allow the application.

3. On the other hand, the defendant filed objection. In the objection contended that the application is not maintainable. The contents of the affidavit are all false. The plaintiff is not owner and in possession of the suit property bearing panchayat No.1-28 measuring 180 feet X 180 feet Venkateshwar temple situated at Gabbur village. As per the department of archaeological, Museums, there is a Eashwer Temple and Yelubhavi Basavana temple are situated in the premises of Venkateshwar temple. The suit schedule property is under the care and custody of department of archaeological, museums and Heritage Karnataka Exhibition Authority premises, Mysore. The department of archeology not issued any permission to filed this suit to the plaintiff. The plaintiff himself admits in the plaint that the department of archaeological are maintaining and supervising the suit property. The defendant no.2 to 6 are the devotees apart from Venkateshwar temple and other two Eashwar temple and Yelubhavi Basavanna temple are situate at

within the premises of Venkateshwar Temple. The plaintiff only performing the pooja in Laxmi Venkateshwar Temple as a Archaka. The deputy director of archaeological issued notice on 29.08.2023 to the plaintiff not to construct the Kitchen Room and Toilet Room in the Venkateshwar Temple premises. However the plaintiff violated the said order. The plaintiff has not shown proper reasons for amendment. The plaintiff not paid the court fee regarding mandatory injunction. Hence alleged amendment will change the nature of suit and cause of action will change. Hence prays to reject the application.

4. Heard both side.

5. Considering the contentions of the parties, following points arise for my consideration.

1. Whether the plaintiff has made out sufficient ground to allow the application ?

2. What order?

6. My findings for the above points are as under.

Point No.1: In the affirmative,

Point No.2: As per final order.

For the following,

REASONS

7. **POINT NO.1:-** The plaintiff filed this suit for declaration and permanent injunction against the defendants in respect of suit schedule property bearing panchayat No.1-28 measuring 180 X 180 feet situate at Gabbur village. The plaintiff contended that during pendency of MA No.2/2024 before the 1st Addl.District and Session judge, Raichur. The defendants started illegal construction and after intervention of the archaeological department stoped construction which was almost at the roof level. In view of the said order passed by the Hon'ble 1st Addl. District and Session judge, Raichur illegally constructed the room and compound wall. Now the plaintiff intended to amend the plaint in changed circumstances and also intended to amend the prayer column by seeking mandatory injunction in respect of illegal construction made in the said premises. The defendant in the objection contended that the plaintiff has not authority to file the suit and there is no reasons for amendment and also contended that court fee for mandatory injunction not paid and it will change the nature of suit and also it will change the cause of action. In the changed circumstances the plaintiff filed this application for amendment. As per records the plaintiff evidence was not at begin and in view of changed circumstances it is necessary to amend the plaint and nature of suit will not change in entirety

and in respect of court fee at this stage payment of court fee does not arise while filing the application for amendment. Hence considering the entire material this court is of the opinion that the plaintiffs have made out sufficient grounds to allow the application. Hence this court answered the point No.1 in the affirmative.

8. **POINT NO.2:** In view of reasons stated in the point No.1 this court proceed to pass the following,

ORDER

The IA No.5 filed by the plaintiff U/o.6
rule 17 of CPC is hereby allowed.

The plaintiff is directed to amend the
plaint and furnish the amended plaint copy.

(Dictated to the Stenographer directly on the computer, typed by him corrected by me and then pronounced in the open court on this the 10th day of September 2025).

(Suresh Annappa Savadi)
Senior Civil Judge & JMFC.,
Devadurga.