

KARN220016922012



**IN THE COURT OF THE ADDITIONAL CIVIL JUDGE &
JMFC., AT CHANNAPATNA.**

PRESENT : **SRI. SURESHA.S.N.,** B.A., L.L.B.,
Addl. Civil Judge & JMFC
CHANNAPATNA

Dated:- 27th day of October 2025

O. S. No.74/2012

PLAINTIFF: Sri.C.V.Ramesh

//VERSUS//

DEFENDANTS: Sri.C.V.Nataraju & Others

I. A. No.XIII

APPLICANT/S: Sri.C.R.Vijay

..... (GPA holder Plaintiff)

- V/s -

OPPONENT/S: Sri.C.V.Nataraju & Others

..... (Defendants)

i.	Provision under which the application is filed	Under order VI Rule XVII R/ w Sec.151 of CPC
ii.	Relief sought for	Amendment of plaint
iii.	The date on which the application is filed	12.03.2025
iv.	Number of the application	I.A. No.XIII
v.	The date on which the objections are filed by different opponents	- 16.04.2025

vi.	The date on which the orders were passed on the said application	27.10.2025
-----	--	------------

**ORDER ON I.A. NO.XIII FILED BY THE APPLICANT UNDER
ORDER VI RULE 17 R/W SEC.151 OF CPC**

The Applicant/the GPA holder of the plaintiff has filed this Application/I.A. No.XIII under Order VI Rule 17 R/w Sec.151 of CPC., seeking for amend the plaint as sought for below and proceed with the suit:-

Amendment sought for

In page No.3 after existing para No.2(a) the following new paragraphs are to be inserted as paragraphs No.2(b), 2(c) and 2(d) respectively in the plaint as under:

2(b). The plaintiff submits that defendant No.6 R.Rajalakshmi married to V.Narayanaswamy, who have no issues. The said V.Narayanaswamy and Venakataramanaswamy are brothers. Venkataramanaswamy married to Yashodamma and both of them are dead and they have got a son by name C.V.Nataraja and the whereabouts of the C.V.Nataraja are not known to the plaintiff. The defendant No.4 and 5 are the daughters of C.V.Nataraju. As a matter of fact, the plaintiff C.V.Ramesh and defendant No.1-C.V.Nataraja. Defendant No.2-C.V.Draupathi, 3 defendant by name C.V.Asha have got equal right over the suit schedule property and they are entitled to an extent of $\frac{1}{4}$ th share each. The 6th defendant-R.Rajalakshmi has no share in the suit schedule property as she passed away on 04.12.2016 who has no issues. The claim of the 6th defendant i.e., R.Rajalakshmi is illegal, as she is nothing to do with the suit schedule property. The plaintiff and defendant No.1 are brothers. Originally the Katha of the landed property stands in the name of A.Venkatapathaiyah who is the grand-father of the plaintiff and after his death, the Katha of the landed property was effected in the name of V.Venkataramaswamy. In the mean time, Katha of the

landed property was illegally transferred in the name of C.V.Nataraja. In this regard it is submitted that on the basis created and concocted documents Katha of the landed property was transferred in the name of C.V.Nataraja.

2(c)The 6th defendant R.Rajalakshmi is the parental aunt of Madhurajanardhan, who is 8th defendant herein. The father of 8th defendant by name M.R.Srinivasa and 6th defendant- R.Rajalakshmi are brother and sister. The said R.Rajalakshmi in order to deprive the legitimate rights of the plaintiff and defendant No.1 to 3 had created a will on 01.08.2015 by bequeathed the ½ share of the suit schedule property in favour of 8th defendant i.e., Madhurajanardhan, who is a stranger to the family of the plaintiff and defendant No.1 to 3. The said R.Rajalakshmi died on 04.12.2016. The said will is not binding on the plaintiff and defendant No.1 to 3 and the said will is null and void, if such being the case the 8th defendant has no manner of right, title or interest over the suit schedule property as alleged / claimed in the case.

2(d)The plaintiff submits that, in order to deprive the legitimate rights of the plaintiff and defendant No.1 to 3, partition was entered into between C.V.Nataraj, his wife Savithramma and children by name N. Lakshmi and N.Chaitra in respect of the landed property. The said partition deed was registered in the office of the Sub-registrar, Channapatna, on 10.04.2012 vide on document No.272/2012-13. In this regard it is submitted that C.V. Nataraja is entitled to an extent of 1/4th share in the suit schedule property who has no exclusive right over the suit schedule property to effect partition. In order to harass and blackmail the plaintiff and defendant No.2 and 3, the partition deed was made illegally and subsequently sold the same in favour of 7th defendant – Prasad N.R., In this regard it is submitted that C.V. Nataraja is having only ¼th share in the suit schedule property and the sale deed executed by C.V.Nataraja and his family members to the whole extent i.e., to an extent of more than their share (¼th share) which is not binding on the legitimate share of the plaintiff.

In the prayer column of the plaint after existing prayer (court) the following prayer is to be inserted as prayer (d) and (e) respectively:

(e)to declare that the partition deed entered into between C.V. Nataraja and his family members dated 10.04.2012 is illegal and to declare further that the 1st defendant is entitle to an extent of ¼th share in the suit schedule property and for the remaining property, the plaintiff and the defendant No.2 and 3 are entitle for partition and separate possession in respect of the suit schedule property.

(d)to declare that the will dated 01.08.2015 executed by 6th defendant- R.Rajalakshmi in favour of 8th defendant – Madhurajanardhan is illegal and the same is not binding on the plaintiff in any manner.

2. In the accompanying affidavit it is stated that, applicant/GPA holder of the plaintiff is deposing hereunder on her own behalf and swear to this affidavit. The plaintiff has filed this suit against the defendants seeking for relief of partition and separate possession over the suit schedule properties. His father has been claimed as PW.1 in the above case and thereafter on account of health issues of his father he obtained the power of attorney and he has been examined as PW.2 in the above case. The averements made in the plaint may be read as part and parcel of this affidavit in order to avoid repetition of facts. Today the case is posted for defendants evidence. Recently he changed the counsel who filed NOC Vakalath on his behalf. While scrutinizing the case papers from his counsel, he has advised him to file this application for amendment of the plaint as well as prayer column of the plaint, which are very much necessary and

relevant for proper adjudication of the above case. In order to reduce multiplicity of proceedings, amendment of the plaint as well as prayer column the plaint is required.

3. It is further stated that, if the amendment is allowed there will not be any change in the nature of the suit or property and no cause of action is changed. The said amendment is very much necessary to decide the case of the parties on merits and to pass judgment effectively. Hence it is just and necessary to allow the amendment as prayed for by him in the annexed application. No prejudice or loss would be caused to the other side if the annexed application is allowed. On the other hand, if the same is refused, we will be put to great loss and hardship, which cannot be compensated by any means. **Hence prays to allow the application.**

4. Per contra, the defendant No.8 counsel has filed her written statement and also written statement of deceased defendant No.6 and prays that the averements therein, may kindly be perused as part and parcel of these objection also. Further contended that, the application filed by the GPA holder plaintiff is not maintainable either in law or on facts of the case, devoid of merits, and not sustainable either in law or facts of the

case and liable to be dismissed. The plaintiff has filed this application at a highly belated stage. The proposed amendment is not only voluminous, it is also afterthought to prejudice the defense filed by the defendant No.8. The amendment sought is also voluminous and it completely changes the nature of the suit and introduces a whole new case. No valid reasons are made out for allowing the application, the reasons alleged are all concocted. It is therefore just and necessary that the application be rejected, no loss or prejudice will be caused plaintiff if the application is rejected, but if the same is allowed, this defendant would be put to great loss and injury which cannot be compensated by any means. Hence the defendants prays to dismiss the application in the ends of justice.

5. Heard the counsel for applicant/plaintiff No.1 and defendants on IA No.XIII.

6. Upon hearing arguments and on perusal of materials placed on record, the following points that would arise for my consideration.

- 1) Whether the applicant has made out sufficient grounds to allow IA No.XIII?**
- 2) What order?**

7. My findings to the above points are as under:

Point No.1 : In the Negative

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

REASONS

8. POINT NO.1: The applicant/GPA holder of the plaintiff has filed IA No.XIII U/order 6 Rule 17 R/w Sec.151 of CPC seeking permission to amend the plaint as sought in the application. The present suit is filed for the relief of partition and separate possession over the suit schedule properties. After issuance of suit summons, defendants appeared before the Court through their counsel and filed written statement. Thereafter issues have been framed by this Court. When the matter is set down for cross of DW.1, at this stage the applicant has filed this application seeking to amend the plaint by inserting/deleting the plaint as per the application mentioned above. further contending that, the proposed amendment is necessary to prove his case as the said property of the plaintiff.

9. I have given my anxious consideration to the submission made by both parties.

10. Before going into the factual matrix of the case, we will have to see the law laid down by the Hon'ble Supreme Court of

India in the matter of amendment of pleadings. The Hon'ble Supreme Court has laid down certain principles while considering the application for amendment in judgment reported in **(2009) 8 MLJ 907/(2009) 10 SCC 84 in the case of Ravajeethu Builders and Developers V/s. Narayanaswamy & sons and others** held as follows -

By taking into consideration that large number of applications under order 6 Rule 17 of CPC are filed and all Courts in India are flooded with such cases and indiscriminate filing of applications of amendment is one of the main causes of delay in disposal of civil cases, formulated some basic principles which shall be taken into consideration while allowing or rejecting the application for amendment.

- (1) Whether the amendment sought is imperative for proper and effective adjudication of the case.**
- (2) Whether the application for amendment is bonafide or malafide.**
- (3) The amendment should not cross such prejudice to the other side which cannot be compensated adequately in terms of money.**

- (4) **Refusing amendment would in fact lead to injustice or lead to multiple litigation.**
- (5) **Whether the proposed amendment constitutionally or fundamentally changes the nature and character of the case.**
- (6) **As a general rule the Court should decline amendments if a fresh suit on the amendment claims would be barred by limitation on the date of application.**

11. In the judgment reported in **(2009) 8 MLJ 907 in the case of Ravajeethu Builders and Developers V/s. Narayanaswamy & sons and others** the Hon'ble Supreme Court after quoting various judgments laid down the facts to be considered while considering the application for amendment which are as follows: -

- I. Whether amendment is necessary to decide real controversy. The first condition which must be satisfied before the amendment can be allowed by the Court whether such amendment is necessary for the determination of the real question in controversy. **If that condition is not satisfied the amendment cannot be allowed.** This is the basic test which should govern the Courts discretion in grant or refusal of the amendment.

II. No prejudice or injustice to other party.

The other important condition which should govern the discretion of the Court is the potentiality of prejudice or injustice which is likely to be caused or other side. Ordinarily, if other side is compensated by costs, then there is no injustice but in practice hardly any Courts grants actual costs to the opposite side.

III. The Courts have very wide discretion in the matter of amendment of pleadings but Courts powers must be exercised judiciously and with great care.

12. In **Gangabhai V/s Vijayakumar** the Court has rightly observed the power of Court to amend undoubtedly and wide may at any stage.

13. At this juncture, it is better to know the provision of law. **Order 6 Rule 17 of CPC – Amendment of pleadings** – the court may at any stage of the proceedings allow either party to alter or amend his pleading 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.

14. **Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that inspite of due diligence, the**

party could not have raised the matter before the commencement of trial.

15. In the present case in hand after framing of issues, The evidence from both side adduced, then the case has posted for cross of DW.1, in the mean time the applicant has moved the present application for seeking amendment of the plaint to insert the prayer in the plaint. Since the suit is at the edge of final stage. More so, the suit filed in year 2012 more than 12 years old case. If allow the said application the suit begin with initial stage. If the said the proposed amendment is necessary to the case of plaintiff, either the plaintiff or the GPA holder could have amend the plaint at the initial stage of the suit. Now both plaintiff and defendants have lead their evidence on the basis of issues arose in the suit. If allow the said application, it drags to dispose the suit as soon as possible. In the suit the time has already been dragged to dispose the suit.

16. Only on mere say in the application the court boldly cannot come to the conclusion the things written in the application are true. **The present application is also not proper to insert or delete paragraphs in the plaint.** Hence,

at this juncture, if the application is allowed, it will prejudice to the defence and also cause for delay to dispose the suit.

17. In **Alkapuri Co-operative Society Ltd., V/s Jayanthi Bhai Nagin Bhai reported in AIR 2009 SC 1948** held that – by amendment of plaint the party cannot seek alter the basic structure of the suit.

18. As discussed above I opined that the present application U/order 6 Rule 17 of CPC is to be deserved for rejection. Accordingly, Point No.1 is answered in the **Negative**.

19. **POINT NO.2:** In view of my answer to the above Point No.1, and the reasons assigned therein, I proceed to pass the following :

ORDER

I.A.No.XIII filed by the applicant/GPA
holder of the plaintiff under Order 6 Rule 17
R/w Sec.151 of CPC is hereby **rejected**.

(Dictated to the Stenographer directly on computer, typed by her, the same is corrected, revised, signed and then pronounced by me in the open court, on this the 27th day of October 2025).

**(Suresha S.N.)
Addl.Civil Judge & JMFC.,
Channapatna.**

(Order pronounced in the Open Court)

(Vide separate Order)

ORDER

I.A.No.XIII filed by the applicant/GPA holder of the plaintiff under Order 6 Rule 17 of CPC is hereby rejected.

For cross of DW.1.

Finally as last chance.

Call on 24.11.2025.

**Addl.Civil Judge & JMFC.,
Channapatna.**