

KARN320000132014



Presented on : 03-01-2014

Registered on : 03-01-2014

**IN THE COURT OF THE PRL. CIVIL JUDGE & JMFC.,**  
**KANAKAPURA**

Present: Smt. Radha S, B.A., LL.M.,  
Prl., Civil Judge & JMFC.,  
Kanakapura.

**O.S./6/2014**

**Dated this the 12<sup>th</sup> day of September-2025**

- Plaintiffs : 1. Smt. Kamalamma  
W/o late Puttegowda  
Aged about 55 years,
2. Sri. Raju  
S/o late Shivarudregowda  
Aged about 26 years,
3. Smt. Chandramma  
W/o late Nagaraju  
Aged about 40 years,
4. Sri. Sannamaga  
S/o late Puttegowda  
Aged about 55 years,
5. Sri. Shivanna  
S/o late Puttegowda  
Aged about 45 years,



All are R/o:  
Shivanegowdanadoddi Village,  
Uyyamballi Hobli,  
Kanakapura Taluk,  
Ramanagara District.

**(By Sri. R.M.C.G, Advocate)**

.Vs.

- Defendants: 1. Smt. Muninarasamma  
W/o late Munigowda  
Aged about 70 years,
2. Sri. Shivaraja  
S/o late Munigowda  
Aged about 46 years,
3. Sri. Ganesha  
S/o Veerabhadregowda  
@ Kuntappa  
Aged about 43 years,
4. Sri. Veerabhadregowda  
@ Kuntappa  
S/o late Karigowda  
Aged about 65 years,
5. Smt. Gowramma  
W/o Veerabhadregowda  
@ Kuntappa  
Aged about 55 years,

All are R/o:  
Shivanegowdanadoddi Village,  
Uyyamballi Hobli,  
Kanakapura Taluk,  
Ramanagara District.

**(By Sri. S.V.V, Adv., for D1 to D3)**



**PARTIES TO IA No.19**

Applicants/plaintiffs: Smt. Kamalamma and Others

Vs.

Opponents/defendants : Smt. Muninarasamma & Others

**(RADHA.S)**

Prl., Civil Judge & JMFC.,  
Kanakapura

**ORDERS ON I.A. NO.19**

This is an application filed by the plaintiffs Under Order VI Rule 17 R/w Section 151 of CPC with a prayer to permit them to amend the plaint by incorporating additional prayer at prayer column of the plaint as prayed in the application.

**2.** This application is supported by the affidavit of the plaintiff No.5, wherein he deposed that the present suit is filed by them against the defendants for the relief of permanent injunction in respect of suit schedule property. The defendants have appeared in this case and contested the case by filing their written statement. In the written statement the defendants have specifically denied the right and title of the plaintiffs on the suit schedule property. As such it is very much necessary for the plaintiffs to seek the



relief of declaration of title on the suit schedule property. In order to avoid the multiplicity proceedings it is just and necessary for the plaintiffs to seek the relief of declaration of title against the defendants in respect of suit schedule property in order to avoid further technical issues. As such the ownership of the plaintiffs on the suit schedule property has to be declared in this suit. Hence it is very much necessary to amend the plaint to avoid the technicalities, otherwise the plaintiffs will be put into irreparable loss and injury. The proposed amendment will never affect the defense of the defendants as such, it is just and necessary to decide the controversies between the parties, the present amendment is necessary. On all these grounds, the plaintiffs sought for allowing the application.

**3.** Per contra, the defendant No.2 has filed his objections to the present application. Wherein the defendant No.2 has denied the entire contents of application. It is the specific objection of the defendant No.2 that the prayer sought under the application will entirely change the nature of the suit as such the present application is not maintainable at this stage and liable to be dismissed.

**4.** Heard the arguments of the learned counsels for plaintiffs and defendants at length in great detail on I.A.No.19. Scrutinized the records of the case.



**5.** On scrutiny of records of the case and having heard arguments, the following points would arise for consideration of this court:

1. Whether applicants/plaintiffs have made out sufficient grounds for granting leave to them to amend the plaint as sought for?

2. What order?

**6.** My findings to the above points as under:

Point No.1 : In the Affirmative.

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

### **REASONS**

**7. REASONING ON POINT NO.1:-** The present suit is filed by the plaintiffs for permanent injunction in respect of suit schedule property. When the case was posted for cross examination of DW1, the plaintiffs have come up with this application. It is pertinent to note that, in the present case on hand evidence of defendants is not yet completed. Under such circumstances, let me examine whether plaintiffs are entitled to amend the plaint at this juncture. In this context it is necessary to know the object of amendment brought to Code of Civil Procedure, 1908 in the year 2002, Order VI Rule 17 of Code of Civil Procedure puts an embargo on the



power of the court to grant leave to parties to amend the pleadings at any stage of the proceedings. The said provision introduces the rider that once trial has commenced, unless the party who wants to amend his/her/their pleadings, has to demonstrate that, in spite of exercising due diligence, application for amendment could not be filed at the earliest possibility opportunity, then only application can be entertained.

8. In order to decide the controversy between the parties, it is necessary to refer the provision governing amendment of pleadings.

Order VI Rule 17 of Code of Civil Procedure, 1908 deals with the amendment of pleadings, which reads thus:

**“17. Amendment of pleadings-  
The Court may at any stage of  
the proceedings allow either  
party to alter or amend his  
pleadings in such manner and  
so 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.”**

9. It is well settled law that criterion to decide the application for amendment of pleadings be subject to certain conditions namely:

**1. When the nature of it change by permitting amendment;**

**2. When amendment would result in introducing new cause of action and intending to prejudice other party;**

**3. When allowing amendment application, defeats law of limitation.**

10. Some basic principles emerge which ought to be taken into consideration while allowing or rejecting the application for amendment. Whether the amendment sought is imperative for proper and effective adjudication of the case; whether the application for amendment is bona-fide or mala-fide; the amendment should not cause such prejudice to the other side which cannot be compensated adequately in terms of money; refusing amendment would in fact lead



to injustice or lead to multiple litigation; whether the proposed amendment constitutionally or fundamentally changes the nature and changes the nature and character of the case; and As a general rule, the court should decline amendments if a fresh suit on the amended claims would be barred by limitation on the date of application. These are some of the important factors which may be kept in mind while dealing with application filed under Order 6 rule 17. These are only illustrative and not exhaustive. On having glance over above referred provision of law, it becomes clear that, the court can grant leave to parties to amend their pleadings at any stage of proceedings. This power is subject to condition that, once trial has begun, unless party seeking amendment of the pleadings establishes that, in spite of exercising due diligence, he could not file application for amendment prior to commencement of trial, then said provision puts an embargo on the fetters of the court to grant leave for amendment of pleadings. The present application is to be considered in the light of the statutory mandate contained under Order VI Rule 17 of Code of Civil Procedure, 1908.

**11.** Adverting to the factual score of the present case, the prayers which are tried to be inserted by plaintiffs, is nothing but continuation of existing claim/prayer in the plaint as stands today. It is the specific contention of the



plaintiffs that the defendants have denied the title and right of the plaintiffs on the suit schedule property as such it is just and necessary for the plaintiffs to seek the relief of declaration of title on the suit schedule property. In order to get the remedy, the title of the plaintiffs on the suit schedule property has to be declared. As such it is just and necessary for the plaintiffs to seek the relief of declaration of title to avoid further controversies between the parties. **In a civil suit as per Order 2 Rule 2 of the Code of Civil Procedure mandates that every suit should include the whole claim.** For more convenience it is necessary to narrate Under Order 2 Rule 2 of CPC as under:

**Under Order 2 Rule 2. Suit to include the whole claim:**

**Under Order 2 Rule 2(1):-  
Every suit shall include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action; but a plaintiff may relinquish any portion of his claim in order to bring the suit within the jurisdiction of any Court.**

The object of Order 2 Rule 2 of the Code is two-fold. First is to ensure that no defendant is sued and vexed twice in regard to the same cause of action. Second is to prevent a plaintiff from splitting of claims and remedies based on the same cause of action. The effect of Order 2 Rule 2 of the



Code is to bar a plaintiff who had earlier claimed certain remedies in regard to a cause of action, from filing a second suit in regard to other reliefs based on the same cause of action. It does not however bar a second suit based on a different and distinct cause of action. Under such circumstances, the proposed amendment is necessary for the plaintiffs to get all remedies in one suit and also to avoid further litigation between the parties and more over the same will not cause any prejudice to the defendants as they are not at all surprised with the proposed amendment. The nature of the suit will not be changed by virtue of proposed amendment. However, the plaintiffs through the proposed amendment intends to add prayer in the plaint in continuation to the existing claim/prayer. Since the plaintiffs have approached the court with some relieves as such, it is on the plaintiffs to plead and prove about the pleadings on which they are claiming the relieves.

**12.** Regarding the defence taken by the defendants, right, title and possession of the parties and their right over the suit schedule property can not be decided at this stage as the same can be decided after full pledged trial. In this regard the both parties will get opportunities to lead their evidence. I have perused the averments of the plaint, application and objection. While allowing this application, no harm or injury would be caused to the defendants if



present application is allowed and it will not amount to retraction of any admissions. More over the defendants will get every opportunities to cross examine the plaintiffs with regard to the amended portion as well as in the present suit as the evidence is not yet completed. Under such circumstances, the proposed amendment will not cause any prejudice to the defendants as they will get every chance to cross examine the plaintiffs in this regard as well. The nature of the case will not be changed by virtue of proposed amendment. Hence, viewed from this angle, plaintiffs have made out grounds for allowing the present application. To avoid the further controversies between the parties and multiplicity of proceedings it is necessary for the plaintiffs to add prayer in the plaint as prayed in the application. With these observations, this court answers the point No.1 in the Affirmative.

**13. REASONING ON POINT NO.2:-** For the reasons stated above, this court proceeds to pass the following:

**ORDER**

I.A.No.19 filed by the plaintiffs  
Under Order VI Rule 17 R/w Section  
151 of Code of Civil Procedure, 1908  
is hereby allowed on cost of  
Rs.200/-.



The applicants/Plaintiffs are permitted to amend the plaint as sought in the application and shall furnish the amended plaint.

(Dictated to the stenographer directly on computer, corrected by me then the Stenographer has taken print out, after taking printout corrected, signed and then order pronounced by me in open court on **12<sup>th</sup> day of September 2025.**)

(Smt. Radha.S)  
Prl., Civil Judge & JMFC.,  
Kanakapura