

KARN320005872001



**IN THE COURT OF I ADDL. CIVIL JUDGE & J.M.F.C.
COURT AT KANAKAPURA.**

Dated: This the 10th day of July 2026

Present

Smt. LATHASHREE B.V., B.A., LL.B.,
I Addl. Civil Judge & JMFC,
Kanakapura.

O.S No.21/2001

Plaintiff Sri. R.Rajashekariah
 S/o late. Revanna,
 Major,
 Yeramgere Village,
 Kodihalli Hobli,
 Kanakapura Taluk.

-Vs-

Defendants 1. Sri. S.Suresha
 S/o Shankararadhya,
 Major,
 Yeramgere Village,
 Kodihalli Hobli,
 Kanakapura Taluk.

 2 Sri. B.Nataraju
 S/o Bheerahegde,

Aged about 50 years,
R/at Chikkayeramgere Village,
Kodihalli Hobli,
Kanakapura Taluk.

Interlocutory Application

Plaintiff/ : Sri. R.Rajashekariah
Applicant
(By Sri. V.D.G., Adv.)

-Vs-

Defendants/ : Sri. S.Suresha and another
Opponents
(By Sri. R.M.C.G., Adv.)

1	Provision under which the application is filed	:	Under Order 6 Rule 17 of C.P.C.
2	Relief Sought for	:	Amendment of Plaint
3	The date on which the application is filed	:	30.06.2026
4	Number of the application	:	One
5	The date on which the objection is filed by different opponents	:	02.07.2026
6	The date on which the common orders were passed on the said application	:	10.07.2026

Sd/-

(Lathashree B.V.)

I Addl. Civil Judge & JMFC,
Kanakapura.

ORDERS ON INTERLOCUTORY APPLICATION No.21
UNDER ORDER 6 RULE 17 R/W SEC.151 OF C.P.C.
FILED BY THE APPLICANT/PLAINTIFF

The Advocate for applicant/plaintiff has filed I.A No.21 under Order 6 Rule 17 r/w Sec.151 of C.P.C. seeking amendment for insertion of prayer and also for deletion of boundaries to the schedule "A" and "B" properties.

2. The said Interlocutory Application is annexed with an affidavit wherein, the plaintiff stated that, the suit against the defendants is filed for declaration and other reliefs. During the pendency of the suit, while he was discussing with his counsel, he came to know that, due to circumstantial changes some of the names of the persons have to be changed in the boundaries in the suit schedule "A" and "B" properties as per the some of sale deed and death of persons. Hence, even the prayer column has to be amended. It is also submitted that, the same is not intentional but for circumstances for the above said bonafide reason. It is also narrated that, during the pendency of the suit, the defendant No.2 has illegally purchased the suit schedule "A" property from the defendant No.1 by violating the order of the court dated 20.01.2001 and after the same, the defendant No.2 obstructed the plaintiff to enter into the suit schedule "B"

property from the “A” schedule property. Hence, it is prays to allow the application.

3. In contra, the defendant No.2 who is only the contesting defendant of the matter has chosen to file the objection by submitting that, the suit is set down for arguments and at this belated stage the plaintiff has filed the above said application which is not maintainable under law and denies the contention of the averments in the affidavit by submitting that, the defendants are not bound or liable to reserve any land much-less of 10 feet road in northern side of the plaint “A” schedule property for the alleged use of the plaintiff tractor and bullock cart to suit schedule “B” property. The plaintiff is again and again bringing the false amendment application to harass these defendants and in the cross-examination, the plaintiff has clearly admitted that, he is in possession and enjoyment of “A” schedule property and the “B” schedule property is allotted to the defendant No.1 and that “B” schedule property is allotted to his share and katha was made out in their respective names. It is further submitted that, the suit schedule property is not in existence they have been sub divided. Hence, the suit is not maintainable and there is no valid or cogent grounds to allow the application and prays to reject the same in the ends of justice.

4. Heard.

5. The following points arise for this court consideration:

1. Whether the applicant filed application under Order 6 Rule 17 R/w Sec.151 of C.P.C. is deserves to be allowed?
2. What Order?

6. The answers to the above points are as under:

Point No.1: In the Negative;

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

REASONS

7. **Point No.1:** The present suit is filed by the plaintiff seeking for the relief of declaration and permanent injunction against the defendants over the suit schedule property. Now, the stage was set down for arguments, the present application was filed and thereafter only the defendant No.2 has filed his objection. Meanwhile, the said plaintiff has come up with the said application under Order 6 Rule 17 R/w Sec.151 of C.P.C. seeking amendment for insertion of prayer and also for deletion of

boundaries to the schedule “A” and “B” properties by submitting that the proposed amendment is very much required.

8. At this juncture it is to be noted that, the suit was initially filed for the relief of permanent injunction and later the same was converted to the suit for declaration and that the plaintiff is the joint owner of the suit schedule property of the defendant and also to declare the registered sale deed dated 03.11.2010 is not binding on the plaintiff along with the relief of permanent injunction to restrain the defendant No.2 from not to obstruct the plaintiff to reach the suit schedule property from the cart road and also as sought a prayer in alternative for partition of suit schedule property. Hence, there is a series of prayer sought by the plaintiff already through necessary amendment application. At this juncture, it is to be noted that, the plaintiff in the present case has subsequently i.e., on 09.01.2025 had filed the application U/o 6 Rule 17 of CPC, wherein, these prayers were included to the suit

through I.A No.7. Hence, through the said application the plaintiff has already gone through the pleadings of the plaint and was very much clearly aware regarding the present circumstances of the suit schedule property its nature and its existence.

9. Admittedly, it is not the opinion of the court that, the plaintiff is filing repetitive and similar applications, as because the plaintiff is at liberty to seek amendment in the pleadings at any stage. However, the plaintiff has to meet the ingredients of the said provision and substantiate before the court of the very purpose of bringing the application at the later stage i.e., to say as per well established principle of law while considering the application U/o 6 Rule 17 of CPC the party or the applicant has to substantiate his due diligence before the court and also should give proper reasoning as to why there was delay in bringing the said application before the court and also needs to show before the court regarding the aspect and necessity of such an amendment required

to the suit and also should substantiate the same is not inconsistent or change the fundamental character of the suit.

10. Further, in the present matter, when the plaintiff filed such an application at the belated stage of the case he ought to have shown the due diligence before the court. However, in the present matter what is the due diligence is nowhere explained by the plaintiff and when was the said boundaries changed through what context the boundaries are changed are nowhere explained. Further, as already narrated in the year 2025 itself a series of insertion of prayer to the plaint pleadings is made out by the plaintiff and the present prayer which is sought in the application has no further explanation and substantiation made therein i.e., even to the said context the due diligence is not shown by the plaintiff. Further, it could be also clearly ascertained that, the present relief sought in the application seems to introduce a new prayer which goes inconsistent to the present pleadings in the plaint and also

the changing of boundaries as sought in the application and the prayer made therein would infact change the fundamental character of the suit.

11. Further, by changing the present boundaries, the same would change the very nature of the case and when the materials on record is perused the plaintiff has himself admitted in his deposition regarding the facts and circumstances over which now by trying to amend the said facts would inturn goes to withdraw the admissions which is not permissible under law. Hence, based on such circumstances, as per the well established principle of law that, the amendment which is sought by either of the party should not cause prejudice to the other party and also should not become a shield to cover the lacuna of the case or to fill the lacuna of the case at the belated stage and also that the party has sole responsibility to show due diligence which is not reflecting in the said application.

12. In this regard it is beneficial to rely upon the decision reported in **(2019) 4 SCC 332 between M.Revanna V/s Anjanamma (Dead) by Legal representatives and others**, wherein, the Hon'ble Court was pleased to opined that, an application for amendment may be rejected if it seeks to introduce totally different, new and inconsistent case or changes the fundamental character of the suit. Order 6 rule 17 of CPC prevents an application for amendment after the trial has commenced unless the court comes to the conclusion that, despite due diligence the party could not have raise the issue. The burden is on the party seeking amendment after the commencement of trial to show that, inspite of due diligence such amendment could not be sought earlier. It is not a matter of right and that the Hon'ble Court was pleased to observe that the court needs to take into consideration whether the application for amendment is bonafide or malafide and whether the same causes prejudice to the other side. Hence, in the present

application when the annexed affidavit is perused there is no single utterance from the end of plaintiff to show his due diligence that inspite of having full conscious such amendment could not be sought by him earlier.

13. Further, it is also beneficial to rely upon the decision reported in **(2009) 10 SCC 84 between Revajeetu Builders and Developers V/s Narayanaswamy and sons and others**, wherein, the Hon'ble Apex Court was please to observe certain factors which needs to be taken for consideration by the court while dealing with an application for amendment and once such important factor is as to whether the amendment would cause prejudice to the other side or it fundamentally changes the nature and character of the case.

14. Inpursuance to the same, as per the discussion made above, in the present matter also the amendment sought by the plaintiff is something which would fundamentally change the structure of the suit and also it seems to cause prejudice to the other side as because the

evidence from both the ends is concluded. Due admissions are already placed on record. Hence, when such being the circumstances changing the very context of the prayer or boundaries to the schedule with no proper reasoning for the same would cause prejudice to the other end. Hence in view of the said principles laid down by the Hon'ble Constitutional Court supra it is clear that, there has to be proper substantiation from the end of plaintiff while seeking amendment to the plaint pleadings. Further, it is to be specifically noted that, in the present matter, the affidavit annexed to the application has no clarity regarding the stand of plaintiff and mere submissions that, some persons have dead and some persons have sold the property will itself not be a ground to consider the prayer that boundaries has to be changed as because no reasoning is given as to what is the circumstantial factors and who are those persons who have demised and who are those persons who have sold the property.

15. It is further to be noted that, in the affidavit it is also mentioned that, during pendency of the suit defendant No.2 purchased the suit schedule "A" property from defendant No.1. However, it is already narrated in the pleadings of the plaint by the plaintiff through amendment application by even mentioning the specific date of sale deed. Hence, it goes to show that, he was well aware regarding the subsequent proceedings. Hence, he ought to have shown the due diligence in the present application while seeking the said prayer and further it is to be noted that, as already narrated above the plaintiff is seeking himself to declare as joint owner of suit schedule properties along with subsequent prayer of permanent injunction with alternative prayer of partition. When such being the case, the proposed amendment as per the present application with respect to the prayer is completely inconsistent to the prayers already existing therein and to the said effect there is already a prayer in the plaint No. "bc" already inserted in the plaint pleadings wherein relief

of permanent injunction is sought to restrain defendant No.2 from obstructing him to reach the suit schedule property. Hence, when such being the factors and as per the detailed discussion made above, it clearly goes to show that, the said application filed by the plaintiff does not deserve to be considered in pursuance to the aforesaid points on discussion. Accordingly, this court answer Point No.1 in the “Negative”.

14. **Point No.2:** In view of above made observations, this court proceeds to pass the following:

ORDER

The Interlocutory Application No.21 filed by the plaintiff U/o 6 Rule 17 r/w Sec.151 of CPC is hereby dismissed.

No order as to costs.

(Directly dictated to the Stenographer on computer, corrected, signed and then pronounced by me in the Open Court on 10th day of July 2026)

Sd/-
(Lathashree B.V.)
I Addl., Civil Judge & JMFC,
Kanakapura.