

2 Sri. Mahadeva
S/o Dyavegowda,
Aged about 45 years,

3 Sri. Nagaraju
S/o Dyavegowda,
Aged about 40 years,

4 Sri. Shankaregowda
S/o Dyavegowda,
Aged about 35 years,

D.1 to D.4 are
R/at Deveerahalli Village,
Halagur Hobli,
Malavalli Taluk.

5 Smt. Mahadevamma
W/o late. Eregowda,
Aged about 42 years,
R/at Honnaganahalli,
Sathanur Hobli,
Kanakapura Taluk.

6 Smt. Sarojamma
W/o Marigowda,
Aged about 50 years,
R/o Kadanakanahalli Village,
Virupakshipura Hobli,
Channapatna Taluk.

7 Smt. Shivalingamma
W/o Marigowda,
Aged about 40 years,
R/o Iggalur Village,
Virupakshipura Hobli,
Channapatna Taluk.

- 8 Smt. Sudha
D/o Dyavegowda,
Aged about 36 years,
R/of Deveerahalli Village,
Halagur Hobli,
Malavalli Taluk.
- 9 Smt. R.G.Kavitha
D/o R.Gopal,
Aged about 44 years,
R/of No.1274, 1st main road,
Gandhinagara, Yalahanka,
Bangalore - 64.

Interlocutory Application No.IX

Plaintiff/
Applicant : Sri. D.Shivalingegowda
(By Sri. P.S.R., Adv.)

-Vs-

Defendant : Smt. R.G.Kavitha
No.9/
Opponent
(By Sri. C.V.L., Adv.)

| | | | |
|---|--|---|---------------------------------|
| 1 | Provision under which the application is filed | : | Under Order 6 Rule 17 of C.P.C. |
| 2 | Relief Sought for | : | Amendment of Plaintiff |
| 3 | The date on which the application is filed | : | 31.10.2025 |
| 4 | Number of the application | : | One |

| | | | |
|---|---|---|------------|
| 5 | The date on which the objection is filed by different opponents | : | 12.11.2025 |
| 6 | The date on which the common orders were passed on the said application | : | 31.01.2026 |

Sd/-

(Lathashree B.V.)

I Addl. Civil Judge & JMFC,
Kanakapura.

ORDERS ON INTERLOCUTORY APPLICATION No.9
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 an application under Order 6 Rule 17 r/w Sec.151 of C.P.C. seeking amendment in the prayer.

2. The said Interlocutory Application is annexed with an affidavit wherein, the plaintiff stated that, he has filed the suit against the defendants for the relief of partition and separate possession. During the pendency of the suit, the survey authority deleted the phode 1 and 2 in Sy.No.34 and after deletion the phode continued as Sy.No.34 measuring 13.05 acres. At the time of filing of the suit, the land bearing Sy.No.34/1 measuring 12.20 acres and Sy.No.34/2 measuring 5.25 guntas standing in the name of defendant No.1 to 4 and during the pendency of the suit

survey authority in order to delete the phodies conducted in Sy.No.34 and corrected the extent as mentioned. Hence, the said survey rectification recently came to the knowledge of the plaintiff i.e., when he has obtained RTC extracts of Sy.No.34 and after obtaining the documents the said changes came to his knowledge. Hence, the said application is filed. It is also submitted that, the proposed amendment did not alter or anyway change the nature of suit. Hence, prays to allow the application.

3. In contra, the defendant No.9 has filed objections by submitting that the said application is not maintainable and the same is liable to be dismissed in limine and also denied the application averments. It is further contended that, the suit filed in the year 2011 and after the lapse of 14 years and the matter was posted for arguments on main i.e., the plaintiff has been duly examined and after that fully cross examined and defendant No.9 was examined as DW.1 and his cross is concluded and now it is posted for plaintiff arguments at this stage it is sought for amendment of para No.2 of the plaint which is not maintainable and the matter is already completed full fledged trial and at this stage the said application is not survival and hence prays to dismiss the application.

4. Heard both the sides. The learned counsel of plaintiff has filed a copy of RTC extract of Sy.No.34 pertaining to the year 2025-26 in support of his contention.

5. The following points arise for this court consideration:

1. Whether the applicants 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 Affirmative

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 partition and separate possession against the defendants over the suit schedule properties. Now, the stage was set down for defendant evidence if any by defendant No.2 to 8. Meanwhile, the plaintiff has come up with the said application under

Order 6 Rule 17 R/w Sec.151 of C.P.C. seeking amendment in the plaint to insert as per the proposed amendment in the application, wherein, the plaintiff is only seeking to insert the newly phoded number of survey number pertaining to suit schedule property and to add subsequent pleadings with effect to the same.

8. Before proceeding with the facts and circumstances of the present application in pursuance to the averments and counter averments raised by both the parties. It is just and necessary to ascertain certain factors which needs to be kept in mind while considering an application under Order 6 Rule 17 of C.P.C. with regard to the amendment sought in the plaint.

9. This court has carefully perused the proposed amendment. It is well settled principle of law that at the time of considering the proposed amendment the court should not discuss on merits about the amendment sought for. At this juncture, it is worth to note that the decision

reported in **2016(1) KCCR 73 between Smt. Puttamaramma V/s Giriyappa and Others.**

“The Hon’ble High Court of Karnataka held that while dealing with application filed under Order 6 Rule 17 CPC the court not to go into correctness or falcity of case for amendment and court not to record any findings on merits of amendment sought for. Further the Hon’ble High Court of Karnataka held that even the amendment application can be filed at appellate stage and the rejection application is not proper”.

Pankaja and Another Vs. Yellappa (dead) by LRs and Others (2004) 6 SCC 415, wherein, the Hon’ble Apex Court has held that delay in filing the application for the amendment cannot itself be a ground to reject the same unless a serious prejudice was caused to other party and it was also further held that, an amendment sub-serving the ultimate cause of justice and avoiding further litigation should be allowed.

10. Now keeping all these observations when the facts and circumstances of the present suit is perused, the suit is filed for partition and separate possession and according to plaintiff the survey authority after due process have got deleted the phodies pertaining to Sy.No.34 by mentioning the correct extent of the same. Hence, the present amendment is required for the subsequent changes with respect to the suit schedule property. On the other hand, only the defendant No.9 has raised objection and have denied the contents of the application but except delay there is no specific objections visible in their contention.

11. However, the decisions supra is very much clear regarding the said aspect. Hence, only the reason of delay will not be a ground in itself for rejection of the application and regarding the contention raised by the defendant No.9 is however the subject matter of trial and it is to be specifically noted that the plaintiff has all liberty to take up the pleadings in support of their case, as because initial burden in the present suit lies upon the plaintiff and it is

also to be noted that, the proposed amendment is a subsequent proceedings according to the plaintiff and inclusion of the said proposed amendment will however not change the very nature of the case or cause of action rather by including the same, the matter will be fully adjudicated at once and the same would avoid multiplicity of proceedings.

12. Hence, here it is to be understood that, by allowing the said application it would not change the nature of the suit would rather avoid multiplicity of proceedings and also aid in the proper adjudication of the matter. Hence, the same goes to show that, the applicant has made out sufficient grounds to allow the present application. However, it is to be noted that, the delay suffered by the said defendant No.9 should be compensated by imposing cost over the plaintiff. Accordingly, this court is of the considered opinion that the application deserves to be allowed. **Hence, this court answered Point No.1 in the Affirmative.**

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

ORDER

I.A No.9 under Order 6 Rule 17 R/w Sec.151 of C.P.C. filed by the plaintiff is hereby allowed on costs of Rs.500/-.

Further, the plaintiff is permitted to carry out the amendment as sought in the application before the concerned CMO as per the due procedure under law and also furnish the amended plaint before the CMO and office to verify the same and put up accordingly.

Office to make due compliance of the required procedure under law.

(Directly dictated to the Stenographer on computer, corrected, signed and then pronounced by me in the Open Court on 31st day of January 2026)

Sd/-

(Lathashree B.V.)

I Addl., Civil Judge & JMFC,
Kanakapura.