



IN THE COURT OF III ADDL. DIST. AND SESSIONS JUDGE
AT TUMAKURU

PRESENT :

Nagireddy A., BA.L., LL.B, LL.M.,
III Addl. District and Sessions Judge,
Tumakuru.

R.A.No.71/2023

Dated this the 10th day of August 2026

Appellants: Krishnappa,
Dead by his LR.s,

V/s

Respondents : Shanthamma and others

Parties to I.A.VIII

Applicant : Raghu S/o. Late Krishnappa
...Appellant No.1(e)

V/s

Opponents: Shanthamma and others
....Respondents

ORDERS ON I.A.VIII

This is an application filed by the applicant under Order
6 Rule 17 of CPC seeking permission to amend the appeal
memo.



2. The I.A.VIII is supported by an affidavit sworn to by applicant No.1(e).

3. Respondents has filed objection opposing I.A.No.VIII.

4. Having heard, the following point that arises for my consideration:

“Whether the proposed amendment is necessary for deciding of the matter in controversy between the parties?”

5. My answer to the above point is in the **Affirmative**, for the following;

REASONS

6. The appellants have filed this appeal U/o 41 rule 1 R/w Sec.96 of CPC challenging the judgment and decree dated March 23, 2023 passed by the learned Prl. Senior Civil Judge, Tumakuru in O.S.No.111/2017 declining to grant decree for the relief of declaration and consequential relief of possession and permanent injunction.

7. The appellants have contended that the trial court has failed to consider the documents produced by the



appellant at Ex.P3 to 30 and no finding was recorded on Ex.D8 which came into existence during the pendency of the suit in respect of suit schedule properties. According to the appellants, they wanted to seek alternative prayer in the appeal memo to seek remand the matter to the trial court for fresh disposal. It is their case that the proposed amendment will not change the nature and character of the appeal, no prejudice would be caused to the respondents if the application is allowed. Accordingly, they pray for allowing the application.

8. Per contra, the respondents opposing the application on the ground that, the application itself is not maintainable. The suit of the appellant is of the year 2017 and the appellants kept the respondents as litigants for no fault about 15 years. The appellants has already addressed arguments in part and now they have come up with the present application without any merit. According to them the proposed amendment will change the nature of the relief sought in the



appeal and it will change the cause of action. Hence, they pray for rejecting the application.

9. The learned counsel for the respondents has argued that the application filed under Order 6 Rule 17 of the CPC is not maintainable, as that provision applies to the amendment of pleadings. In the present case, there are no such pleadings. Therefore, the provision of law invoked by the appellant for seeking amendment to the appeal memo is incorrect. Hence, he prays for rejecting the application. In this regard, I would like to rely upon the decision of Hon'ble Supreme Court in the case of **Harcharan v/s State of Hariyana** AIR 1983 SC 43 wherein it is held that 'when an appeal is preferred, the memorandum of appeal has the same position like the plaint in a suit and appellate court can permit amendment of the memorandum of an appeal.' In the light of the decision, the arguments addressed by the learned counsel for the respondents holds no water.



10. Regarding the merits of the application, the proposed amendment to the memorandum of appeal seeks to add an alternative prayer for remanding the matter for fresh disposal in accordance with law. This proposed amendment does not alter the nature or character of the appeal. Therefore, I am of the view that the appellant should be given an opportunity to seek this additional prayer in the appeal memorandum. Hence, I answer the above point in the

Affirmative. In the result, I proceed to pass the following:

ORDER

I.A.VIII filed by the appellants under
Order 6 Rule 17 of CPC is hereby **allowed**.

The appellants are hereby permitted to
amend the appeal memorandum as prayed
for and shall furnish the amended appeal
memorandum.

(Dictated to the Stenographer, after transcription, typed, printout taken by her,
corrected, signed and then pronounced on this the 10th day of August 2026)

(Nagireddy A.)
III Addl. Dist. & Sessions Judge,
Tumakuru.