



**IN THE COURT OF THE ADDL.SENIOR CIVIL JUDGE &
JMFC, GUBBI**

Present :

Sri.SHIVARAJ V SIDDESHWAR, Bsc., B.Ed., LL.B.,
Addl. Senior Civil Judge & JMFC, Gubbi

Dated this the 2nd Day of November 2022

O.S. 96/2019

- Plaintiff:**
1. C.L. Kantaraju
S/o Lakshminarayanappa,
Aged about 62 Years,
 2. C.L. Shashidhar
S/o Lakshminarayanappa,
Aged about 59 years.
 3. C.L. Vasantha Kumar,
S/o Lakshminarayanappa,
Aged about 55 Years,
 4. C.L. Dharanendra
S/o Lakshminarayanappa,
Aged about 52 Years,

Plaintiff No.1 to 4 are
R/o Chelur,
Gubbi Taluk,
 5. C.L. Mangala,
W/o Sathyamurthy B.N.
Aged about 40 years,
R/o Shettihalli Road,
Near Batavbadi,
Tumkur.



6. Yashoda
W/o Ramakrishnappa,
Aged about 35 years,
R/o Bommenahalli,
Kora Hobli,
Gubbi Taluk.

(By **Sri. C.R.B.** Advocate)

V/s

Defendant: Sri Chandrashekharaswamigalu
President Sri Mallikarjuna,
Composite School,
Chelur,
Gubbi Taluk.

(By **C.S.A Advocate**)

PARTIES IN IA No.2.

Applicant : C.L. Kantharaju & Others

(Plaintiff)

V/s

Respondent : Sri Chandrashekhara Swamigalu
(Defendant)

ORDER ON I.A. No.2

Plaintiffs have filed IA No. 2 U/o 6 Rule 17 of, CPC
thereby prayed to permit to amend the plaint.



2. IA No.2 is accompanied with sworn affidavit of plaintiff No.2 wherein it is stated that at time of filing the suit plaintiff is not pleaded that “the land Sy.No. 187 of Chelur was a enam land attached to the office of Piper of Sri. Drushteshwara swamy Temple, Chelur, from that times of the ancestor of the plaintiff's their family was doing “Volaga Seva” in the said temple. Said land Sy.No. 187 had been granted to the father of plaintiff's namely Lakshminarayanappa”. On these grounds plaintiffs prayed that for proper adjudication of the matter it is just and necessary to amend the plaint to insert the above said contents after para No.2 of the plaint. Hence, plaintiffs prayed to allow the IA.No. 2.

3. The defendants have filed objection. In the objection the defendant contended that the plaintiffs have filed present application at belated stage. It is also stated that the if instant application is allowed it would change the nature of suit. On these grounds defendant has prayed to reject the IA No. 2.



4. Heard Arguments by the learned counsel for the plaintiffs and defendant. Perused the materials available on record.

5. Following point arises for my consideration.

1. Whether plaintiff has made out sufficient grounds to allow the IA No.2?

6. My answer to the above point is in the Affirmative for the following:

REASONS

7. **Point No.1:-** Plaintiff has filed present suit for the relief of declaration and for recovery of Possession of suit schedule property. The defendant has filed written statement. When the matter was posted for plaintiff evidence the plaintiffs have filed present application seeking amendments in the plaint.

8. Learned counsel for the plaintiffs argued that if instant application is allowed it would not change the nature of suit and proposed amendment is necessary to prove the case of



plaintiff. In support of their argument learned counsel for the plaintiffs cited a decision reported in **AIR 2022 SC 4256 between LIFE INSURANCE CORPORATION OF INDIA V/s SANJEEV BUILDERS PRIVATE LIMITED AND ANOTHER.** In this decision the Hon'ble Apex Court held that "Order 6 Rule 17 of CPC – Amendment of plaint – Scope – Use of word "shall" in latter part of O.6, R.17 makes it mandatory to allow amendments that are necessary for determining real question in controversy provided it does not cause injustice or prejudice to other side. (para No.70)"

9. A perusal of and entire records it suggest that stage of the present suit was is for plaintiff evidence, At that stage the plaintiffs have filed the present application seeking amendments in the plaint. At this stage it is appropriate to refer a decision reported in **ILR 1992 (2) KAR 1107 (DB)** wherein the Hon'ble High Court of Karnataka held as follows:



“ The amendment of pleading can be allowed at any stage of the proceedings in the suit or in appeal proceedings, if it is necessary to decide the controversy between the parties and if such relief is not barred by time or where a fresh suit on the amendment claim is not barred by limitation. However the power to grant relief of amendment is there if it is required to do substantial justice between the parties.”

10. Principles laid down in the above referred decisions directly applicable to the facts of the present case. It is important to note here that if present application is allowed it would not change the nature of suit. Further, proposed amendment sought by the plaintiff is just and necessary to decide the real controversy between parties. However the



plaintiffs have filed the present application at belated stage as such this court is of opinion that present application filed by the plaintiffs deserves to be allowed by imposing reasonable costs. Hence, above point is answered in the Affirmative. I, therefore pass the following:

ORDER

**IA No.2 filed by the plaintiffs
U/o 6 Rule 17 of, CPC is allowed as
prayed for on costs of Rs. 1,000/-.**

**Thereby plaintiffs are directed
to pay the costs and carry out the
proposed amendment in the plaint
and file amended plaint on next date
without fail.**

(Dictated to the Stenographer directly on computer, typed and print out taken by her and then corrected, signed and then pronounced by me in the open court on this the 2nd day of November 2022).

Sd/-
(Shivaraj V Siddeshwar)
Addl. Senior Civil Judge &
JMFC, Gubbi.