



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

PRESENT

SMT. POORNIMA K. YADAV, B.A. LL.B., LL.M.,

Addl. Sr. Civil Judge & JMFC, Gubbi.

Dated on this the 09th day of April, 2026

ORIGINAL SUIT NO.346/2024

Plaintiff/s : Sri H.S. Ravishankar
S/o H.S. Shivalingappa,
Aged about 54 years,
R/at Hebakka Village,
Kasaba Hobli,
Tumakuru Taluk.

(By Sri. K.S.S. Adv.,)

DEFENDANTS: 1. Sri. C.N. Hanumantharayappa
S/o Late Nagappa,
Aged about 71 years,

2. Sri. Balakrishna T.H.
S/o C.N. Hanumantharayappa,
Aged about 51 years,

3. Smt. Thippamma
W/o Balakrishna T.H.
Aged about 45 years,

4. Sri. T.B. Yogeesh,
S/o Balakrishna T.H.
Aged about 23 years,

5. Sri. T.B. Adithya,
S/o Balakrishna T.H.
Aged about 21 years,



6. Sri Varalakshmi @
T.N. Varalakshamma
D/o Late Nagapa,
Aged about 69 years,

All are R/at M.M.A. Kaval Village,
Chelur Hobli,
Gubbi Taluk,
Tumakuru Distict.

(The defeated No.6 is dead and the
other defended i.e. 1 to 5 are the
legal representatives)

(D1 to D by Sri K.L.D., Adv.,)

PARTIES TO I.A.NO.XIV

Applicant : Sri. Balakrishna T.H.

(Defendant No.2)

Vs.

Opponent : Sri H.S. Ravishankar

(Plaintiff)

Provision under the Application	Under Order 6 Rule 17 of CPC
Application Relief sought for	Proposed amendment to the written statement of defendant No.2.
The date of the application is filed Interlocutory Application Number	18.03.2026
Interlocutory Application Number	XIV
Date of objection filed by the Respondent	23.03.2026



Date of order passed	09.04.2026
----------------------	------------

Sd/-
(POORNIMA K. YADAV)
Addl. Senior Civil Judge &
JMFC, Gubbi.

:ORDERS ON I.A.NO.XIV:

When the matter was pending for defendant evidence as last chance, the present application came to be filed.

2. The defendants through their counsel filed this application Under Order 6 Rule 17 of CPC seeking for amendment of written statement.

PROPOSED AMENDMENT

"In page No. 8 before the prayer to add the following sentence "The defendants not add all family members like as pergenealogical tree, Nagappa executed a will deed dated: 03-05-2025 in favour of late Thimmakka and late Varalakshmi, Varalakshmi was died recently not made a party all LRs in the above case as pergenealogical tree,



Thimmakka LRs are there not made party in the above suit, T.H. Balakrishna does not have any right execute will or one daughter by name T.R. Leelavathi D/o late Rangappa. Jayamma the wife of Rangappa had filed a partition suit against the defendants in the above case namely C.N. Hanumanthappa S/o Rangappa, C.N. Balakrishna S/o C.N. Hanumanthappa, T.H. Mohan Kumar S/o C.N. Hanumanthappa, T.H. Nagendra S/o C.N. Hanumanthappa that, suit was pending before the Senior Civil Judge at Tumakuru in O.S. No. 32/2024 dated: 16-01-2024. The suit was still pending. That land as per genealogical tree who are not made a any registered partition in between the family members. That during the pendency of the case 52 Transfer of Property Act lispendency applicable in the above case. In the above O.S. No. 346/2024 that plaintiff was created signature of defendants, that signature not comparing one signature to other



signatures of defendants, it is purely fabricated and created signatures, that all signatures are denied of defendants denied by the defendants and Varalakshmi was bed ridden from when she born and she is not able to put signature in sale agreement and another Adithya was studying Engineering at M.S. Ramaiah College, he did not put signature on sale agreement denied by the defendants. That all joint family members of defendants as per will deed all pahani mentioned jointly not made separate phode and sub division of the suit schedule property. The plaintiff had adjoining land of 16-00 acres i.e. Sy No. 3/3 measuring 6-12 guntas in the name of H.S. Ravishankar S/o Shivalingappa, Sy No. 3/5 measuring 2-08 guntas in the name of H.S. Ravishankar S/o Shivalingappa, Sy No. 3/4 measuring 2-00 acres standing in the name of S.S. Bindu W/o Ravishankar, Sy No. 3/2 measuring 6-10 guntas in the name of S.S. Bindu W/o Ravishankar, Sy No. 3/1



measuring 2-00.12.00 guntas in the same H.S. Ravishankar S/o Shivalingappa, that land was adjoining of the defendants, the plaintiff are intentionally made a business like a real estate and house site formation, resort that land comes in the jurisdiction of the Mahanagara palike, Tumakuru and also comes industrial area, Vasanthanarasapura, that the value of property is about 6 to 7 Lakhs, the plaintiff is created a document of one crore rupees. That the plaintiff not paid full amount of court fee of one crore rupees, only paid Rs. 20,00,000/-, the plaintiff not paid court fee as Karnataka Stamp Act 1958. The plaintiff is not submit I.T. returns. The plaintiff is grab of the land by the defendants and created a sale agreement and created defendants signature and create a witness in favour of plaintiff, the plaintiff is the highly politically influenced person. Hence the defendants are small gift or sale to any third party, he is not a



absolute owner in Sy No. 26/1 to an extent 14-04 guntas, including kharab 2-00 acres out of which 12-04 guntas. Jayamma @ Jayalakshmamma W/o late Rangappa had one son by name Hemanthraj D/o late Rangappa and formers not sell the property to third party of plaintiff. The plaintiff issued a cheque through RTGS i.e. only for surety of the plaintiff not one time paid the amount to the defendants No. 2, other defendants not binding the sale agreement, not receive the amount, unnecessary made a party given trouble in the suit defendant like defendant No. 1, 3, 4, 5 and 6 who are not binding of the sale agreement. The sale agreement was purely created, fabricated and created a signature of witnesses and defendants signature, the sale agreement is a voidable document. The plaintiff had given legal notice on 31-05-2024, the defendants counsel had given reply notice to the plaintiff dated: 11-06-2024, in that legal notice all the contents



of plaintiff legal notice denied by the signatures of defendants side and strictly proved by the other side and who are the defendants put a signature always in Kannada, sometimes putting in English defendants are illiterate person.”

3. The application is accompanied with the affidavit of the defendant No.2, wherein it is stated that the plaintiff filed this suit for specific performance of contract and at the time of filing of the written statement, the counsel was not given clear information by the defendants and the defendants recently received certified copies and gave information to the counsel regarding necessary party as per genealogical tree. Further, the amendment is necessary to plead that suit schedule property came from joint family of grandfather of late S Nagappa and will is executed in the name of his wife Thimmakka and daughter Varalakshmi who are not parties to the suit. The amount received by the plaintiff is for surety purpose



and the defendants have not executed sale agreement in the name of the plaintiff and it is created by the plaintiff for his real estate business. The plaintiff has not made proper parties and the defendant No.2 does not have any right to execute document in favour of third party as he is not the absolute owner. Hence, sought to allow the application.

4. On the other hand, the counsel for the plaintiff filed objection and contended that the application is not maintainable and it is liable to be rejected. It is contended that the applicant has not stated anything about due diligence for amendment which is sought after commencement of trial. The defendants by way of amendment intends to plead facts which are irrelevant and same were suggested to PW1 and 2 during their cross-examination. The affidavit accompanying the application does not disclose reasonable and cogent reasons to allow the application. Hence, sought to reject the application.



5. Heard both the counsel.
6. The counsel for the plaintiff relied on judgment of Hon'ble High Court of Karnataka reported in **2019 (2) KCCR 1484 between Smt. Ashwathamma and another V/s Smt. Nagamma and Another**, wherein it is held that,

“6. Plaintiffs suit is for Declaration to declare that the plaintiff s are the owners in lawful possession and enjoyment of the suit land and for permanent injunction. They have given Specific schedule to the plaint. It is for the plaintiff s to prove that the are the owners in possession of the suit schedule property. The amendment sought by the defendants is to include the averment with regard to incorrect boundaries shown by the plaintiffs and also to include that the plaintiff s have included 1 gunta of Kharab land in the suit schedule. It is plaintiffs suit and it is for them to prove that they producing cogent evidence, both oral and documentary. When the defendants have already taken a contention that the boundaries shown by the plaintiffs to the suit schedule are incorrect and also that the plaintiffs have included 1 gunta of Kharab land, again amendment to explain the same would not be necessary. The trial Court has rightly rejected the application filed under Order VI, Rule 17 of CPC to amend the written statement. The Court



on examination of the material on record has come to the conclusion that the amendment sought is not necessary for adjudicating the real dispute or controversy between the parties. The amendment sought was within the knowledge of defendants as on the date of filing the written statement. In the affidavit filed in support of the application, no reasons whatsoever is indicated for not raising the issue before commencement of trial. Order VI, Rule 17 of CPC permits the amendment of pleadings at any stage of the proceedings, but when the amendment is sought subsequent to commencement of trial, it is for the party who seeks amendment to satisfy the Court with regard to due diligence for not carrying out such amendment earlier.”

7. Upon hearing both the counsel and on perusal of the materials available on record, the point that arise for my consideration is;

Whether the amendment sought for is necessary for proper adjudication of the matter in dispute?

8. My findings to the above point is in the “**Negative**” for the following ;



REASONS

9. Admittedly, the plaintiff has filed this suit seeking relief of Specific performance of agreement of sale dated 13.04.2022 with respect to suit schedule property for sale consideration amount of Rs. 1,00,00,000/- wherein the defendants have received advance sale consideration amount of Rs. 20,00,000/-.

10. The defendants intends to amend the written statement to plead about not adding of all the family members as per genealogical tree as one Nagappa executed Will dated 03.05.2025 in favour of Thimmakka and late Varalakshmi, the said Varalakshmi died recently and her LRs are not made as parties in this suit. The defendants intends to plead facts that the defendant No.2 is not the absolute owner of land bearing Sy. No. 26/1 to an extent of 14-04 guntas including Karab of 2 acres. That apart the defendants intends to plead about pendency of suit in OS No. 32/2024 dated 16.01.2024 on the file of Senior Civil Judge, Tumakuru between the defendants and



other family members. The defendants intends to plead about the plaintiff forging the signatures of the defendants and the plaintiff being owner of 16 acres of land surroundings the suit schedule property and he intends to use the property for his real estate business. The further amendment sought for by the defendants is regarding receiving of amount by the defendants from the plaintiff towards surety.

- 11.** The said application is objected by the plaintiff on the ground that the defendants have not shown due diligence for filing of the application seeking amendment after commencement of trial and the proposed amendment is irrelevant to the case on hand.
- 12.** On perusal of the written statement filed by defendant No.1 to 6, it is pleaded that the defendant No. 2 did not execute sale agreement in favour of the plaintiff. It is further contended that the joint family members of the defendants have not entered into partition to execute



document in favour of the plaintiff.

- 13.** On perusal of pleadings on record read with the facts sought under proposed amendment, it is specific to mention that the matter is pending for defendant evidence which shows that the amendment is sought by the defendants after commencement of trial yet the affidavit accompanying the application does not disclose due diligence for not pleading of the facts before commencement of trial.
- 14.** Further, the Will relied on by the defendants executed by the said Nagappa dated 03.05.2025 is after filing of this suit as the present suit is dated 29.10.2024. This shows that the said document falls within the ambit of Section 52 of Transfer of Property Act, 1882.
- 15.** Further, proposed amendment pertaining to suit for partition in OS No. 32/2024 is dated 16.01.2024 and this suit is for specific performance of Agreement of Sale on the basis of the agreement dated 13.04.2022. As



such, pleading of the partition suit is not necessary for adjudication of the suit on agreement of sale.

- 16.** That apart owning of property by the plaintiff to an extent of 16 acres adjoining the suit schedule property and the property of the defendants is not within the scope to adjudicate the rights of the parties on the basis of agreement of sale.
- 17.** Further, the defendants by way of amendment intends to plead that Varalakshmi is dead and her LRs are not made as parties in the suit. The materials on record discloses that the said Varalakshmi D/o. Late Nagappa is defendant No.6 in this suit. If the said Varalakshmi is dead, the defendants ought to have reported the death of the said Varalakshmi D/o. Late Nagappa. No such report of death and the death certificate of the said Varalakshmi is forthcoming in the records. Hence, the said amendment is irrelevant.
- 18.** The above made discussion clearly establishes that the



defendants failed to show due diligence for not pleading the facts known to them at the time of filing of their written statement on 10.12.2024. The Judgment relied on by counsel for the plaintiff mentioned above is aptly applicable to the case on hand as the present application suffers from due diligence. That apart the proposed amendment facts are not necessary for adjudication of the matter in dispute. Accordingly, I proceed to pass the following :

ORDER

***I.A. No. XIV filed by the
defendants under Order 6 Rule
17 of CPC is hereby rejected on
costs of Rs.500/-.***

(Directly dictated to the stenographer on the computer, printed through steno, corrected by me and then pronounced in the open court on this the **09th day of April, 2026**)

Sd/-
(POORNIMA. K. YADAV)
Addl. Sr. Civil Judge & JMFC,
Gubbi