



**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 5th day of December, 2023

ORIGINAL SUIT NO. 26/2023

**Plaintiff/s : G.N. Shivakumar and Others
(By. Sri. D.G., Adv.)**

Vs.

**Defendant/s : G.N. Chikkahanumantharayee and
Others
(D1 to 3 by Sri. D.G. Adv.,)
(D4 to 7 Exparte)**

PARTIES TO I.A.NO. V

**Applicant/plaintiff : G.N. Shivakumar
(1st plaintiffs)**

Vs.

**Opponents/defendants: G.N. Chikkahanumantharayee
and Others**

Provision under the Application	Under Order 6 Rule 17 of CPC
Application Relief sought for	Proposed amendment to the plaint
The date of the application is filed Interlocutory Application Number	08.11.2023
Interlocutory Application Number	V
Date of objection filed by the Respondent	22.11.2023
Date of order passed	05.12.2023

Sd/-

**(POORNIMA K. YADAV)
Addl. Senior Civil Judge &
JMFC, Gubbi.**



: ORDERS ON I.A.NO.V:

When the matter was pending for Cross-examination of PW1, the present application came to be filed.

2. The applicant/plaintiff No.1 through his counsel filed this application Under Order 6 Rule 17 of CPC seeking for amendment of plaint.

PROPOSED AMENDMENT

“ 1. In the plaint 2nd page, para No.3, 4th line and 12th line K.No. 3028/1 is to be deleted, in the same place K.No. 3028/168 is to be inserted.

2. In the plaint schedule 2nd line Katha number 3028/1 is to be deleted, in the same place Katha number 3028/168 and as per Pattana Panchayath Assessment katha No. 3310/3028/4 is to be inserted.”

3. The application is accompanied with the affidavit of the plaintiff No.1, wherein it is stated that the present suit is filed seeking relief of declaration and permanent injunction and at the time of filing of the suit property



Number was wrongly mentioned as K. No. 3028/1 instead of K. No. 3028/168. The said mistake is bonafide and not intentional. Hence, sought to allow the application.

4. On the other hand, the counsel for the defendants filed objection and contended that the application is not maintainable and it is liable to be rejected. It is contended that the plaintiffs are not in possession of property bearing Katha No. 3028/168 as the said property is not allotted to the plaintiffs. The present application is filed after commencement of trial. Hence, sought to reject the application.
5. Heard both the counsel.
6. Upon hearing both the counsel and on perusal of the materials available on record, the points that arise for my consideration is;

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

7. My findings to the above point is in the “**Affirmative**” for



the following ;

REASONS

8. Admittedly, the plaintiff filed this suit seeking relief of declaration and mandatory injunction in respect of suit schedule property described as property bearing Katha No. 3028/1.
9. The plaintiffs by way of amendment intends to change the katha Number of the property as 3028/168 instead of 3028/1.
10. Though the said application is objected by the defendants on the ground that the said property is not allotted to the plaintiffs, it is a matter of trial and not the point to be considered while disposing an application seeking for amendment of plaint.
11. Order 6 Rule 17 of CPC provides of amendment of pleadings which are necessary for the purpose of determining the real questions in controversy between the parties.
12. If the proposed amendment is not allowed no opportunity will be given to the plaintiffs to adjudicate rights over the



suit schedule property. In the said circumstance as the present suit is for declaration of title, it is just and proper to allow the application as sought for. Accordingly, I proceed to pass the following :

ORDER

***I.A. No.V filed by the plaintiffs
under Order 6 Rule 17 of CPC is
hereby allowed.***

***Plaintiff counsel shall carry
out necessary amendment and file
amended plaint.***

Parties to bear their own cost.

(Directly dictated to the stenographer on the computer, printed through steno, corrected by me and then pronounced in the open court on this the **5th day of December, 2023**)

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