



**IN THE COURT OF THE PRL. CIVIL JUDGE &
JMFC AT KUNIGAL**

**PRESENT: Smt.Sujatha A.B., B.A.L, L.L.B.,
Prl.Civil Judge & JMFC.,
KUNIGAL.**

DATED THIS THE 1st DAY OF APRIL 2026

O.S.No.169/2020

Plaintiff- Sri. Byatarangaiah
(By Smt.G.R.K.,advocate)

-Versus-

Defendants- Sri. Rangappa and others
(By Sri. C.L.V., Advocate)

I.	Provision under which the application is filed	Under Order 6 Rule 17 R/W 151 of CPC
II.	Relief sought for	For amendment of plaint
III.	The date on which the application is filed	05.08.2024
IV.	Number of the application	II
V.	The date on which the objections are filed by	29.11.2024



VI.	The date on which the order were passed on the said application	01.04.2026.
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RANK OF PARTIES ON I.A.No.V

Applicant/Plaintiff: Sri. Byatarangaiah

V/s

Opponent/Defendant: Sri. Rangappa and others

ORDERS ON IA NO.V FILED BY THE PLAINTIFF

U/O. VI RULE 17 R/W 151 OF CPC.,

When case posted for hearing on IA No.I at that time the instant I.A.No.5 is filed by the plaintiff Under Order VI Rule 17 R/w 151 of C.P.C. to permit him to amend the boundary of the suit schedule property by allowing this application.

2. In the affidavit annexed along with the application, the plaintiff contended that he has filed



the suit for the relief of permanent injunction and he has two properties at Gunnagere Village, at the time of filing the suit, he has given khatha number and measurement of his another property, but the boundaries given incorrectly and when he go through the plaint very recently then it was came to his knowledge. It is only bonafide mistake but not intentional one proposed amendment will not change any cause of action to the suit and his evidence is not commenced. Further the proposed amendment is just necessary to decide the matter on merits, if application is allowed no harm or injustice caused to the other side. If same is rejected he will be put to irreparable loss. Among these grounds he prayed to allow the application.



3. On the other hand, the defendants have filed their objections by denying the contentions of the plaintiff and claimed that proposed amendment will change the nature of the suit and cause of action of the suit because the plaintiff has produced in respect of Khatha No.239 measuring 45X11. But now he intending to insert Khatha No.45 measuring 48X42 and documents in respect of said property are created by the plaintiff. The defendants contended that if the application is allowed he will be put to irreparable loss, which cannot be compensate. Among these grounds they prayed to reject the application.

4. Heard arguments from both side. Perused the materials on record.

5. The following points arose for determination of the court.



1. **Whether the reasons assigned in the application is sufficient to permit the plaintiff to amend his plaint?**
2. **If so, What order?**

6. After hearing both side, the court proceeds to answer aforesaid points as below:

Point No.1 : In the Affirmative
Point No.2 : As per the final order
For the following:

::REASONS::

7. POINT No.1:- Admittedly the plaintiff has filed this suit for the relief of permanent injunction and when case was posted for cross-examination of PW.1 at that time the plaintiff has come up with this application for seeking the order for amendment. According to plaintiff, he had two properties in the same village and at the time of filing the suit by oversight he has given Khatha number and



measurements of his another property but boundaries are given properly and same was came to his knowledge very recently. On the other hand defendants claimed that the documents produced by the plaintiffs are created one.

8. On perusal of entire records, it is clears that the plaintiff has not intended to change the boundaries of the suit schedule property. It is well settled law that boundaries prevails at the end and with regard to creation of documents as alleged by the defendants they can establish the same and at the time of cross-examination of PW.1 and through his evidence also. Furthermore, in this case the cross-examination of PW.1 is not yet commenced and also the proving of possession of the plaintiff over the suit schedule property is casted upon him and on



considering proposed amendment this court feel that if same is permitted there will be no change of cause of action as well as nature of the suit. Hence, this court is of the opinion that the application is not allowed either the parties will not in a position to enjoy the fruits of the decree. At the same time if the application is not allowed, the plaintiff would be put to irreparable loss and injuries. On the other hand the delay in filing the application could be compensated by imposing costs on the plaintiff.

9. The counsel for the defendants relied upon decision in ***2023(4) Indian Civil Cases 986 (Badsha Ansary & Ors V/s. Nasir Ansary & Ors)*** I have gone through the decision relied by them with due respect, wherein it is held in the wake of courts have identified that defendants were tried to raise a



construction then Factum of continuous and gradual dispossession and prayer for recovery of possession are required to be incorporated in plaint and rejection of plaint lead to multiplicity of proceedings.

10. It is further noted that in the said decision while discussing it is noted that as per decision in Life Insurance Corporation of India Vs. Sanjeev Builders Private Ld & others Hon'ble Apex Court had laid down certain principles of governing amendment under paragraph 70 of the said decision. Accordingly under point iii. it is mentioned that by any amendment, the parties seeking amendment does not seek to withdraw any clear admission made by the party which confers a right on the other side and further held that prayer of amendment generally required to be allowed unless amendment changes the nature of suit. So at this



point of time when we come to the present case neither the plaintiff had given admission on any fact and later seeking to withdraw the same through present amendment nor proposed amendment changes the nature of suit.

11. Further it is noted that in present suit plaintiff intended to change only extent and property number whereas he doesn't seek to change boundaries. So under said circumstances said decision won't assist the defendants in anyway. Moreover in said decision itself amendment application was allowed and as a result facts and circumstances of said decision is not at par with the present case in hand, hence same is not helpful for the defendants.

12. Further on perusal of proposed amendment it appears that if same is permitted to insert, nature of the



suit as well as cause of action will not change. The merits of the case cannot be considered while deciding this application. So in that situation if the present application is allowed, no hardship or injustice would be caused to the defendants. The amendment is always subject to proof. Hence mere allowing the same, it cannot change the nature of the suit nor cause of action. Merely allowing the application does not mean that this court has accepted the plea of the plaintiff and he is required to prove the said contention. The defendants have also has an opportunity to deny the said contention. It is general rule that before commencement of trial, the amendment is permissible unless it changes the cause of action or nature of suit. With these observations, this court is of the opinion that proposed amendment of plaint has sought in the application is necessary for full



and effective adjudication of the matter in dispute.
Hence, *the court proceeds to answer Point No.1 in the Affirmative.*

13. POINT No.2:- In view of the aforesaid findings on Point No.1, the court proceeds to pass following:

ORDER

I.A.No.II filed by the plaintiff Under Order 6 Rule 17 of C.P.C. is hereby allowed with cost of Rs.2,500/-.

Accordingly, the plaintiff is permitted to carry out the amendment under this application by inserting proposed amendment.

(Dictated to the Stenographer on computer, typed by her corrected by me and then pronounced in the open Court on this the **1st day of April 2026**)

Sd/-
(Sujatha A.B.)
Prl. Civil Judge & J.M.F.C.,
KUNIGAL.