

KATK710009732015



**IN THE COURT OF ADDL. CIVIL JUDGE AND JMFC,
PAVAGADA**

**Present:- Smt. Munirathnamma.C.N, B.A., LL.B.,
Addl. Civil Judge and JMFC,
Pavagada.**

Dated this the 6th day of January, 2026

O.S.No.186/2015

Plaintiffs :

**Smt.Chithamma
W/o Late Gummanna,
Aged about 80 years
and others**

(By Sri.S.R.V, Advocate)

V/S

Defendants :

**Sri.Govindappa
S/o Late Eragummappa,
Aged about 70 years,
and others**

**(Defendant No.2, 3 and 6 by
Sri.I.S.A, Advocate, Defendant
No.10 by Sri.D.P.R, Advocate,
Defendant No.8, 9, 13, 17, 1, 4,
5, 7 and Lrs of Defendant
No.11(a) to (c) are placed
exparte. Defendant No.11(d) to
(f) are by Sri.S.N.M, Advocate)**

I.A.No.XXVI

Applicant/Plaintiff No.3 : Smt.Sarojamma

V/s

Opponents/Defendants : Sri.Govindappa and
others

**ORDERS ON I.A.NO.XXVI FILED BY THE PLAINTIFFS UNDER
ORDER 6 RULE 17 OF C.P.C.**

The counsel for plaintiffs has filed IA No.26 under Order 6 Rule 17 of CPC for seeking for amend the plaint as contended in the application.

2. The Proposed amendment is as follows:

PROPOSED AMENDMENT

1. Delete “Ramalingappa S/o Shivalingappa” in the line No.14 of para 3 of the plaint and cause “Smt.Nagamma W/o Thimmanna” in its place.

2. Delete “6/5/1996” and add “6/8/1965” in its place in para No.4, in 26th line at page 8 of the plaint.

3. Add “R.A.No.75/2012 on the file of Civil Judge Senior Division at Pavagada was allowed 16/11/2019 by giving a finding that the husband of

10th defendant had purchased 3 Acres in Sy. No.204 of Arasikere Village only. The 10th defendant and her heirs have not challenged the said judgment and decree in R.A.No.75/2012” as para 13(a) of the plaint.

3. In the affidavit the plaintiffs stated that at the time of filing of suit by oversight due to inadvertence and by clerical mistake, he could not be able to add, correct the proposed amendment. The proposed amendment during the course of preparing the plaint which is very much essential to decide the respective claims in between the parties permanently more particularly the date of sales, date of purchase and from whom the said purchase was made. The said mistake is bona-fide and not intentional one. Hence, it is just and necessary to amend the plaint. Hence, the plaintiffs sought for permission to amend the same in the plaint.

4. On the other hand counsel for defendants filed objection to the said application. In the objection it is contended that case for posted for cross of PW.1 and in this circumstances without cross examine the PW.1, the plaintiffs have filed amendment application. In the proposed amendment R.A.No.75/2012 on the file of Senior Civil Judge at Pavagada was allowed on 16.11.2019 by giving findings that, the husband of defendant No.10 had purchased 3 Acres in Sy. No.204 of

Arasikere Village only. The defendant No.10 and her heirs have not challenged the judgment and decree in R.A.No.75/2012 and the defendant No.10 has preferred RSA before the Hon'ble High Court of Karnataka and the said case is pending and it is also came to knowledge of plaintiffs. The said application for amendment in the plaint to harass the defendants. The proposed amendment pleadings are all false, created, concocted and just to give trouble to the defendants. If the application is allowed it will change and alter the nature of the suit and on going to insert new and unconcerned facts in the plaint and it is not maintainable in law. Hence, prays to reject the application.

5. Heard the argument and perused the materials on record.

6. The points arise for determination of this Court as follows:

1. Whether the plaintiff has made out sufficient grounds to allow the application?

2. What order?

7. My answer to the aforesaid points are as follows:

Point No.1 : In the Affirmative,

Point No.2 : As per the final order for the following:

REASONS

8. **Point No.1:-** The plaintiffs have filed the suit for declaration and permanent injunction. On going through the record, it is clear that when the matter was posted for cross of PW.1, the plaintiff has come up with present application for seeking permission to amend the plaint. In the application the plaintiffs stated that at the time of filing of suit by oversight and by mistake they have not added the above said proposed amendment to the plaint. Hence, the plaintiff intends to amend the plaint by correct the pleadings. The same is objected by the defendants. If the application is allowed no cause of action is changed and it will not take away the case of defendants. If the application is rejected, it will lead multiplicity of proceedings. If the application is allowed no hardship will caused to the defendants. The evidence of the parties is not been concluded, at this stage if the application is allowed no hardship will caused to the defendants and it will not take away the defence of the defendants. The delay can be considered and objection can be considered by imposing heavy cost by allowing this application. In the above facts and circumstance, it is just and proper to allow the application. Hence, I proceed to answer point No.1 in the **Affirmative**.

9. **Point No.2:-** In view of above assigned reasons, I proceed to pass the following;

ORDER

I.A.No.26 filed by the plaintiffs under
Order 6 Rule 17 of CPC is hereby allowed on
cost of Rs.500/-.

(Dictated to the Stenographer, corrected and then
pronounced by me in the open court on this the 6th day of
January, 2026)

Sd/-

(Smt.Munirathnamma.C.N)
Addl. Civil Judge & J.M.F.C.,
Pavagada.