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**IN THE COURT OF ADDL. CIVIL JUDGE AND JMFC-II
AT KARWAR.**

**PRESENT: NAVEEN M.H., B.A., LL.B.,
Addl. Civil Judge and JMFC-II
Karwar.**

Dated this 10th day of July-2026

OS No. 118/2024

**Plaintiff: Seetaram Nagesh Gunagi
(By Sri.A M G - Advocate)**

V/s

**Defendant: Tulasidas Nagesh Gunagi
(By Sri.D.R.B - Advocate)**

IA No.II

Applicant: Seetaram Nagesh Gunagi

V/s

Opponent.: Tulasidas Nagesh Gunagi

ORDERS ON APPLICATION FILED UNDER ORDER VI RULE 17
OF C.P.C

1. The plaintiff has filed an application U/O. VI Rule 17 R/W Section 151 of C.P.C. seeking to amend Survey. Number mentioned in Item NO.1 by replacing word Sy.No.627/2 by inserting Sy.No. 627/1 and in prayer column after the words ಪರಿಶಿಷ್ಟದಲ್ಲಿ ಕಾಣಿಸಿದ ದಾವಾ ಜಮೀನಿಗೆ ಸಂಬಂಧಿಸಿದ ದಿನಾಂಕ 15-09-2017 ರಂದು ಕಾರವಾರದಲ್ಲಿ ಉಪ ನೋಂದಾಣಿ ಕಚೇರಿಯಲ್ಲಿ ಮಾಡಿದ ದಸ್ತ ಸಂಖ್ಯೆ : 2038/2017-18 ರಂತೆ ನೋಂದಾಯಿಸಿದ ಭಕ್ತಿಸ ಪತ್ರವನ್ನು ಶೂನ್ಯ ಹಾಗೂ ಅನುರ್ಜಿತ ಎಂದು ಘೋಷಿಸಿ ರದ್ದುಗೊಳಿಸುವಂತೆ ಪ್ರಾರ್ಥನೆ ಇದೆ ಎಂದು , *to insert the words* “ಹಾಗೂ ಸನಂ 627 ಹಿಸ್ಸಾ 1 ರಲ್ಲಿ ಇರುವ ಪ್ರತಿವಾದಿಯ ಹೆಸರನ್ನು ತೆಗೆದು ಹಾಕಿ ವಾದಿಯ ಹೆಸರು ದಾಖಲಿಸುವಂತೆ ” ಪ್ರಾರ್ಥನೆ .

2. In the accompanying memorandum of facts that, the plaintiff has mentioned Survey No. 627, Hissa No. 2 in Schedule No. 1 of the plaint instead of Sy.No. 627/1. With these contentions the plaintiff prays to allow this application.

3. On the other hand, the counsel for the defendant has filed objections. In the objections, it is stated that the present I.A. seeking amendment of the plaint is contrary to law and the true facts of the case, and therefore, the same deserves to be rejected. It is contended that the present I.A. itself is not maintainable, as no affidavit has been filed in support of the application. Under the Karnataka Civil Rules of Practice, a party is required to file an affidavit in support of an application for amendment. It is further stated that the plaintiff has already obtained a temporary injunction and that the present I.A. has been filed only to delay the proceedings. It is also contended that, if the amendment is allowed, the temporary injunction obtained in respect of one of the suit properties will become infructuous. Hence, the defendant prays that the said application be dismissed.

4. Heard both the sides. Perused the materials available on record.

5. In view of the same, the following points arise for my consideration.

(1) Whether the plaintiff has made out grounds for allowing I.A.No.II and thereby permitting him to carry out the amendment in the plaint as sought for?

(2) What Order?

6. My answer to the above points are as follows.

Point No.1: In the **Affirmative**

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

REASONS

7. **Point No.1:** The plaintiff has sought amendment of the plaint under Order VI Rule 17 read with Section 151 of the Code of Civil Procedure seeking to amend Survey. Number mentioned in Item NO.1 by replacing word Sy.No.627/2 by inserting Sy.No.627/1 and in prayer column after the words ಪರಿಶಿಷ್ಟದಲ್ಲಿ ಕಾಣಿಸಿದ ದಾವಾ ಜಮೀನಿಗೆ ಸಂಬಂಧಿಸಿದ ದಿನಾಂಕ 15-09-2017 ರಂದು ಕಾರವಾರದಲ್ಲಿ ಉಪ ನೋಂದಾಣಿ ಕಚೇರಿಯಲ್ಲಿ ಮಾಡಿದ ದಸ್ತ ಸಂಖ್ಯೆ : 2038/2017-18 ರಂತೆ ನೋಂದಾಯಿಸಿದ ಭಕ್ಷಿಸ ಪತ್ರವನ್ನು ಶೂನ್ಯ ಹಾಗೂ ಅನುರ್ಜಿತ ಎಂದು ಘೋಷಿಸಿ ರದ್ದುಗೊಳಿಸುವಂತೆ ಪ್ರಾರ್ಥನೆ ಇದೆ ಎಂದು , *to insert the words*

“ಹಾಗೂ ಸನಂ 627 ಹಿಸ್ಸಾ 1 ರಲ್ಲಿ ಇರುವ ಪ್ರತಿವಾದಿಯ ಹೆಸರನ್ನು ತೆಗೆದು ಹಾಕಿ ವಾದಿಯ ಹೆಸರು ದಾಖಲಿಸುವಂತೆ ” ಪ್ರಾರ್ಥನೆ .

8. The defendant has opposed the application mainly on the grounds that the application is not supported by an affidavit as required under the Karnataka Civil Rules of Practice, that it has been filed only to protract the proceedings after obtaining an order of temporary injunction, and that the amendment would render the temporary injunction infructuous.

9. On perusal of the records, it is evident that the proposed amendment relates to the description of the suit schedule property. The cause of action pleaded in the plaint remains unchanged. The plaintiff continues to seek declaration that the Gift Deed is null and void and correction of the revenue records. Thus, the proposed amendment neither introduces a new cause of action nor changes the fundamental nature and character of the suit. It is only intended to bring the pleadings in conformity with the revenue records relied upon by the plaintiff.

10. It is well settled that amendments which are necessary for determining the real questions in controversy between the parties should ordinarily be allowed, provided they do not change the basic nature of the suit or cause such prejudice to the opposite party as cannot be compensated by costs. **The Hon'ble Supreme Court in Revajeetu Builders and Developers v. Narayanaswamy & Sons, (2009) 10 SCC 84**, has held that while considering an application under Order VI Rule 17 CPC, the Court should adopt a liberal approach where the amendment is necessary for effective adjudication of the dispute and does not fundamentally alter the nature of the case. Similarly, in **Life Insurance Corporation of India v. Sanjeev Builders Private Limited, (2022) 2 SCC 746**, the Hon'ble Supreme Court reiterated that procedural law is intended to advance the cause of justice and that amendments necessary for deciding the real controversy between the parties should ordinarily be permitted.

11. The objections raised by the defendant regarding the merits of the plaintiff's claim, the effect of the temporary injunction, or the correctness of the proposed amendment are matters to be considered during the trial on the basis of evidence. Mere allowance of the amendment

does not amount to acceptance of the plaintiff's case on merits. The defendant will have sufficient opportunity to file an additional written statement and contest the amended pleadings. Therefore, no irreparable prejudice will be caused to the defendant.

12. As regards the objection relating to the affidavit, the application is accompanied by an affidavit setting out the reasons for seeking amendment.

13. Even otherwise, the procedural laws are hand maid of justice hence, merely because an application is not supported by affidavit. Application cannot be rejected by itself. On the other hand, the amendment sought in the application formal in nature does not goes to root of the matter or doesn't alter or change the nature of the suit.

14. Accordingly, this Court is of the considered opinion that the proposed amendment is necessary for effective and complete adjudication of the dispute and that allowing the amendment will not change the nature of the suit or cause prejudice to the defendant. Hence, Point No.1 is answered in the **Affirmative.**

15. Point No.2: In view of answering the point No.1 in the **Affirmative**, this Court proceeds to pass the following.

ORDER

The application filed by the counsel for plaintiff U/o. VI Rule 17 R/W Section 151 of C.P.C. is hereby allowed.

The plaintiff is permitted to carry out amendment and to furnish amended plaint in the next date of hearing.

(Directly dictated to the laptop, typed by me, corrected and then pronounced by me in the open court on this 10th day of July 2026).

(Naveen M.H)

**Addl. Civil Judge& JMFC-II,
Karwar.**

