

KAUK610004122023



**IN THE COURT OF SENIOR CIVIL JUDGE AND JUDICIAL
MAGISTRATE OF THE FIRST CLASS AT HONNAVAR**

DATED ON THIS 07TH DAY OF MARCH, 2026

**PRESENT : SRI B.C. CHANDRASHEKAR B.A., LL.B.
SENIOR CIVIL JUDGE AND JMFC
HONNAVAR**

ORIGINAL SUIT NO.40 OF 2023

PLAINTIFF : Sri Lokeshwar K. A.

(By Sri SSB, Advocate)

VERSUS

DEFENDANTS : Smt. Ganapi W/o Anand Naik
and Others.

**(By Sri GPH, GGB, MLN and
VVN, Advocates)**

PARTIES IN IA NO.XI

APPLICANT : Sri Guruprasad Narayan Sharavati,
Aged about 35 years,
Occ: Merchant/Agriculturist,
R/o Areangadi of Hosakuli village.

(By Sri GPH, Advocate)

VERSUS

OPPONENT : Sri Lokeshwar K. A.,
S/o Anandu Lingappa Naik,
Aged about 69 years,
Occ: Agriculturist/Retired,
R/o Prabhat Nagar, Honavar.

(By Sri SSB, Advocate)

**Order on IA No.XI under Order VI, Rule 17 read with
section 151 of CPC**

The defendant No.5 has filed this application under the above provision praying to amend the plaint by way of incorporating two properties into the plaint schedule.

02. The application has been supported with the affidavit of defendant No.5 and he has sworn to that he knows the facts of this case. The plaintiff has other two properties in his name at Honnavar and the said properties have been purchased during the lifetime of the father, after selling some of the properties and by using the sale consideration amount and the said purchased properties are also the joint family properties and they are required to be added. Accordingly, he prayed to allow the application by

permitting him to amend the plaint by way of inserting the other properties in the suit schedule.

03. The application has been objected by the counsel for the plaintiff and they contended that application is not maintainable under law or on facts. The defendant never contended in the written statement that those properties are the joint family properties, but he wanted to amend the plaint though he is the defendant. Accordingly he has no right to amend the plaint. Further he has not produced any documents to show that the said properties are the joint family properties. He can prove the existence of joint family properties at the time of evidence. But the defendant cannot amend the plaint submitted by the plaintiff. Accordingly, he prayed to dismiss the IA.

04. Heard and perused.

05. On the basis of the above, the following points are arise for my consideration:

POINTS

01. Whether the defendant No.5 has made out a grounds to permit him to allow the plaint as sought for?

02. What order?

06. My answers to the above points are as follows:

Point No.1 : In the negative,
Point No.2 : As per the final order
for the following:

REASONS

07. **Point No.1**: The plaintiff has filed the suit for partition and separate portion over the scheduled properties against the defendants. At this stage, defendant No.5 wanted to amend the plaint as sought for in the application. At this stage, it is benefit to refer the provision of section Order VI, Rule 17 of CPC which reads as here under:

Order VI,

Rule 17 - Amendment of Pleadings: *The court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties.*

08. As per the above provision, court may at any stage of the proceedings allow either party to alter or amend his pleadings in such a manner. If the proposed amendments are necessary for proper determination of real question in controversy between the parties. Thus the provision is very

clear either party can file application under the above provision to amend or alter their pleadings but not the pleadings of others. The language is very simple. The defendant can permit to amend his pleadings and on the other hand the plaintiff can permitted to amend his pleading. But here peculiarly the defendant wanted to amend the plaint as sought for in the application which is against the provision of section Order VI, Rule 17 of CPC.

09. At this stage, the counsel for the defendant have relied upon a decision of Hon'ble High Court reported in **2003 (4) KCCR 3066 in between Hanumantharayappa V/s Pillappa and another** in support of their arguments, I carefully gone through the decision of Hon'ble High Court. In the cited decision the defendant has filed an application before the trial court for amendment and it has been rejected by the trial court. The defendant has approached the Hon'ble High Court in filing Civil Revision Petition. But on perusal of the same the lordship of Hon'ble High Court has dismissed the Civil Revision Petition. On meticulous verification of entire judgment, it is not the dictum of Hon'ble High Court that the defendant can be permitted to amend the plaint of the plaintiff. Under such circumstances, there is no provision to permit the defendant to amend the plaint. As discussed above, the provision of Order VI, Rule 17 of CPC is very clear that either party can permitted to amend their own pleading,

but not others. Hence this court of the considered view that application is devoid of merits and liable to be dismissed with at least cost of Rs.1,000/-. Accordingly, I answered **Point No.1 in the negative**.

10. **Point No.2**: In the result, I proceed to pass the following:

ORDER

IA No.XI filed under Order VI, Rule 17 read with section 151 of CPC filed by the defendant No.5 is hereby dismissed with cost of Rs.1,000/-.

(Dictated to the stenographer directly on the computer, typed by her, corrected, then signed and pronounced in the open court on this 07th day of March, 2026)