

KAVP010043132021



I.A.IV filed on : 09.01.2026
I.A.V filed on : 02.06.2026
I.As. decided on : 30.07.2026
Duration of I.A.IV : 6 months-21days
Duration of I.A.V : 1 month -28 days

**IN THE COURT OF III ADDL.DISTRICT JUDGE AND
ADDL. LAND ACQUISITION, REHABILITATION AND
RESETTLEMENT AUTHORITY, VIJAYAPURA**

Present:

SRI.Khadarsab Husensab Benakatti,
B.A., LL.M.,
III Addl.District & Sessions Judge,
Vijayapura.

Dated this 30th day of July 2026

L.A.C.No.2373/2021

Applicants/Claimants in both I.A.IV & V:

Keshav S/o Madavaras Kulkarni
deceased by his LRs.

Parthasarati S/o Keshav Kulkarni
and others

[By Sri.P.M.Jakati, Advocate]

// Versus //**Opponent/Respondents in both I.As.:**

The Spl. Land Acquisition Officer,
UKP, Alamatti & another

[R1/By Sri.S.S.Garasangi, Spl.G.C]

i.	<i>Provision under which the applications are filed.</i>	U/O VI R 17 of C.P.C.
ii.	<i>Relief sought for</i>	For amendment of reference petition
iii.	<i>The date on which the applications are filed</i>	I.A.IV filed 09.01.2026 I.A.V filed 02.06.2026
iv.	<i>Number of the application</i>	VI & V/2026
v.	<i>The date on which the objections are filed by the different opponents</i>	R-1 filed Obj. to I.A.IV on 28.03.2026 R-1 prayed to treat Obj. filed to I.A.IV as Obj. to I.A.V on 03.07.2026
vi.	<i>The date on which the order was passed on the said application</i>	30.07.2026

Common Order on I.A.No.IV & V

The claimants have filed these interim applications Under Order VI Rule 17 of CPC for amendment of reference petition.

2. The counsel for the claimants has filed Memo of Facts along with respective interim applications wherein he

stated that in the reference petition, survey number and extent of acquired land has been wrongly mentioned as R.S.No.1066 measuring 2 Acres instead of R.S.No.1107/1, 1107/2 (1107) measuring 19 Guntas and also name of the claimants has been mentioned as Hanamant Krishnaji Kulkarni (died) instead of Keshava S/o Madavarao Kulkarni (dead). Said amendments are quite essential. Accordingly, prayed for allowing the applications.

3. The counsel for the respondent No.1 has filed common objections by denying the averments made in the applications and annexed Memo of Facts. The respondents have specifically contended that proposed amendment will change the nature of the petition. They further contended that the present claimants have already filed reference petition in respect of Sy.No.1066 measuring 2 Acres in LAC No.2377/2021. Said case came to be disposed of. The claimants being aware of these facts, have filed present applications. The claimants are not diligent in prosecuting the matter. The claimants have filed present applications

with an intention to protract the matter. Hence, prayed for rejection of the applications.

4. Heard both sides.
5. Following Points arose for my consideration;

1. Whether the claimants have made-out grounds for allowing I.A.No.IV & V filed Under Order VI Rule 17 of CPC?

2. What order?

6. My answers to the above Points are as under;

Point No.1: In the Negative

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

REASONS

7. **Point No.1**: The claimants have filed present applications for amendment of reference petition.

8. The counsel for the claimants argued that due to oversight, survey number, extent and name of the parties has been mentioned as R.S.No.1066 measuring 2 Acres and name of party as Hanamant S/o Krishnaji Kulkarni instead of

instead of R.S.No.1107/1, 1107/2 (1107) measuring 19 Guntas and Keshava Madavarao Kulkarni. The said error is purely typographical one. If the applications are allowed, no harm or prejudice would be caused to the respondents. Accordingly, prayed for allowing of the applications.

9. Per contra, the counsel for the respondents argued that the proposed amendment will change the nature of the petition. The present claimants have filed two reference petitions with respect to same property. Another reference petition filed in LAC No.2377/2021 came to be disposed of. After disposal of LAC No.2377/2021, they have filed present applications with intention to protract the matter. Accordingly, prayed for dismissal of the applications.

10. On perusal of the entire material available on record, it reveals that legal heirs of one Keshava S/o Madavarao Kulkarni have filed reference petition with respect to R.S.No.1066 measuring 2 Acres situated at Kakhandaki village, Tq.Babaleshwar. Respondent No.1 has referred the matter to this authority for determination of market value of

the acquired land. After reference this court has issued notice to both parties. Both parties appeared through their respective counsels. The respondents have filed their objections. Subsequently, claimant No.1 has been examined as PW.1 and got marked documents at Ex.P1 to 11. PW.1 in his examination-in-chief deposed that they are the owners of the land bearing Sy.No.1066 measuring 2 Acres, but in the amendment applications, claiming that they are the owners of land bearing Sy.No.1107/1, 1107/2 (1107) measuring 19 Guntas. The evidence of PW.1 is contrary to present applications. In the meanwhile, the claimants have filed present applications for amendment of reference petition. In the applications, the claimants are intending to change the Survey number, extent and name of the claimant. The proposed amendment will change the nature of the claim. Further the present claimants had filed another reference petition in LAC No.2377/2021 which came to be disposed of on 18.10.2025. After disposal of said reference petition, the claimants have filed present applications. The conduct of the

claimants goes to show that they have filed present applications only with an intention to protract the matter and also claim the amount from the government.

11. That, in a decision reported in **(2008) 13 SCC 179** (*Bolepanda P.Poonacha Vs. K.M.Madapa*) in which the Hon'ble Apex Court held that;

“One cause of action cannot be allowed to be substituted by another, therefore, the application for amendment of written statement held as not maintainable.”

12. In another decision reported in **(2013) 9 SCC 485** [*Mashyak Grihnirman Sahakari Samsthe Maryadit Vs., Husman Habeeb Dhuka*], in which the Hon'ble Apex Court clearly held that “Amendment sought at belated stage is not maintainable”

13. In another decision reported in **(2019) 4 SCC 332**, wherein the Hon'ble Apex Court has clearly held at para No.7 that;

“Leave to amend may be refused if it introduce a totally different, new and inconsistent case or challenges the fundamental character of the suit. The proviso to O.VI

Rule 17 C.P.C. virtually prevents an application for amendment of pleadings from being allowed after the trial has commenced unless the Court comes to the conclusion that in spite of due diligence the party could not have raised the matter before the commencement of trial. The proviso to an extent curtails absolute discretion to allow amendment at any stage. Therefore, the burden is on the person who seeks an amendment after commencement of the trial to show that in spite of due diligence such amendment could not have been sought earlier. An amendment cannot be claimed as a matter of right and under all circumstances. Though normally amendments are allowed in the pleadings to avoid multiplicity of litigation. The Court needs to taken into consideration whether the application for amendment is bonafide or malafide and whether the amendment causes such prejudice to the other side which cannot be compensated adequately in terms of money.”

At para No.9, further held that:

“The application for amendment of the plaint is not only belated but also not bonafide and if allowed, would change the nature and character of the suit. If the application for amendment is allowed, the same would lead to a travesty of justice, in as much as the Court would be allowing plaintiffs 1 to 5 to withdraw their admission made in the plaint that the partition had not taken place earlier. Hence, to grant permission for amendment of the plaint at this stage would cause serious prejudice to plaintiff No.6 – respondent herein.”

The above cited decisions are aptly applicable to the case in hand.

14. Admittedly, the claimants have failed to adhere to the said recourse at the appropriate time. It is well settled law that grant of application for amendment be subject to certain conditions namely, (1) when the nature of suit is changed by permitting amendment; (2) When the amendment would result in new cause of action and intends to prejudice the other party; (3) When allowing amendment application defeats the law of limitation. The claimants have not only failed to satisfy the conditions prescribed in the proviso of Order VI Rule 17 of C.P.C., but also on merits which is liable to be rejected.

15. Admittedly, the reference petition is of the year 2021. The respondents have filed their objection statement in the year 2022. The present applications for amendment have been filed on 09.01.2026 and 02.06.2026. The conduct of the claimants clearly goes to show that they have filed the present applications only with an intention to protract the matter and cause loss and harassment to the respondents.

16. The claimants have failed to explain the reason for the delay. No explanation is available as to why despite due diligence proposed amendment could not be incorporated at the earlier point of time. The amendment would require de-nova evidence with regard to nature of disputed property.

17. Besides, as per proviso to Rule 18 of the Karnataka Civil Rules of Practice 1967, in case of amendment of pleadings, filing affidavit is mandatory, but in this case the counsel for the claimants has filed Memo of Facts, which is not permissible under law. the Karnataka Civil Rules of Practice 1967, Rule 18 reads thus;

18. (1) Every Interlocutory application shall be indicated by the abbreviation "I.A." and shall be consecutively numbered in each suit, appeal or proceeding in which it is filed.

(2) All facts, on which an applicant relies for making the prayer or obtaining the relief sought in the application, shall be set out in an affidavit accompanying the application. Where, however, the facts on which the application is based appear from the records of the case in the Court or relate to any act or conduct of the applicants pleader himself, the Court may permit a memorandum of facts signed by the applicant's pleader to be filed instead of an affidavit.

[Provided that it shall not be necessary to file any affidavit but only a memorandum of facts signed by the

pleader in interlocutory applications seeking any relief other than the reliefs of temporary injunction, attachment, arrest, appointment of guardian or the appointment of receiver or amendment of a pleadings.]

Hence, the applications filed by the claimants are not maintainable on this count also.

18. In view of the above discussion, no case is made out to permit proposed amendment of the reference petition. Hence, I answer point No.1 in the **Negative**.

19. **Point No.2**:- For the foregoing reasons, I proceed to pass the following;

ORDER

I.A.No.IV & V filed Under Order VI Rule 17 of CPC, are hereby dismissed with cost.

[Dictated to the Steno-Gr-I directly on the Computer, script corrected and then pronounced by me in the Open Court on this the 30th day of July, 2026]

[Khadarsab Husensab Benakatti],
III Addl.District & Sessions Judge,
Vijayapura.