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**ORDERS ON IA.NO.22 FILED BY THE PLAINTIFF UNDER
ORDER 6 RULE 17 R/W SECTION 151 OF CPC.**

1. Plaintiff has filed present suit for the relief of declaration of his title and for perpetual injunction as against the defendants.

2. On 22.09.2021 counsel for the plaintiff had filed IA.No.19 under order 13 rule 10 R/w Section 151 of CPC praying to summon the original declaration in Form No.(11) and Jamabandi Book of Ganapur village for the year 1964 from the office of Tahasildar, Yadgiri. When the above case was posted for orders on IA.No.19 to 21, learned counsel for the plaintiff has filed the instant application praying to permit the plaintiff to amend the provision of law in IA.No.19 as one filed under order 16 rule 6 R/w Section 151 of CPC instead of order 13 rule 10 of CPC.

3. In the affidavit annexed to the application the plaintiff has stated that instead of filing the IA.No.19 under order 16 rule 6 of CPC he had filed IA.No.19 under order 13 rule 10 of CPC praying to summon the original declaration in Form No.(11) and Jamabandi Book of Ganapur village for the year 1964 from the office of Tahasildar, Yadgiri. The provision of law which is applicable to summon the documents is order 16 rule 6 of CPC and not order 13 rule 10 of CPC. But due to over site wrong

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provision of law was mentioned in the IA.No.19. Now the plaintiff is intending to quote the correct provision of law in the IA.No.19 by making the amendment as sought for in the instant application. If the application is allowed no hardship will be caused to the defendants and the proposed amendment will also not change the nature of the suit. Hence with these submissions the plaintiff has prayed to allow the application.

4. The application was objected by the defendants by filing the objection by contending that the application filed by the plaintiff is not maintainable under the law. The reasons assigned in the accompanying affidavit is not just and proper. That the plaintiff has filed the similar application under order 13 rule 10 of CPC before the appellate court in RA.No.13/2018 and the same was dismissed by the Hon'ble Appellate court. As against the said order, the plaintiff has preferred the W.P.No.201926/2019 and even the said W.P was also dismissed by confirming the order passed by the Sr. Civil Judge Court, Yadgiri. Therefore, having failed in his attempt to summon the document before the Appellate Court, the plaintiff has filed the very same application before this court. The defendant has contended that there is no provision in the Civil Rules of Practice to Amend the interim

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application. This court is not empowered to allow the plaintiff to amend the interim application. The present application is filed by the plaintiff with an intention to drag on the above case. Hence, on this ground alone the application deserves to be dismissed. With these objections and on the other grounds the defendants have sought for dismissal of the application.

5. Heard both the sides on IA No.22. Perused the records. The following points arises for my consideration:

POINT No.1: Whether the plaintiff has made out valid grounds to allow the application?

POINT No.2: What order?

6. My answers to above point as under:

Point No. 1: In the Affirmative

Point No. 2: As per my findings on point No.1 for the following:

REASONS

7. POINT NO.1: Plaintiff has filed present suit for the relief of declaration of title and for perpetual injunction as against the

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defendants. Initially the plaintiff had filed the IA.No.19 under order 13 Rule 10 of CPC. Since the plaintiff is seeking to summon the proposed the documents from the office of Tahasildar, Yadgir, the plaintiff is intending to quote the correct provision of law in the IA.No.19 as one filed under 16 rule 6 of CPC. Now the question that arise for consideration is whether this court can allow the plaintiff to carry out amendment in the interim application by invoking the provision of order 6 rule 17 of CPC. Order 6 Rule 17 of CPC reads as follows:

ORDER 6 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.*

Provided that no application for amendment shall be 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.

8. The plain reading of order 6 rule 17 makes it very clear that the court can allow the parties to the suit to amend their respective pleadings. Now the question that further arises for

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consideration is that whether the interim application is a pleading or not?. To answer this question it is worth to fall back on the definition of pleading as defined under **Rule 3(1) of Karnataka Civil Rules of Practice and the same as reads as follows:**

“Pleadings” shall include complaints, written statements, memorandum of appeals, cross objections, original petitions, **applications**, counter statements, replies, re-joinders and every statement setting out the case of a party in the matter to which the pleadings relate.

9. Hence, as per Rule 3(1) of Karnataka Civil Rules of Practice the pleadings includes the applications also. Order 6 rule 17 empowers the court to allow the parties to the suit to amend their respective pleadings. Since the applications are also considered as pleadings, the courts can permit the parties to the suit to carry out amendments in the interim application by invoking the provision of order 6 rule 17 of CPC. Therefore, I hold that, the plaintiff is very much entitled to seek the proposed amendment under order 6 Rule 17 of CPC. Further, by way of amendment the plaintiff is only intending to quote the correct provision of law in the IA.No.19 as one filed under 16 rule 6 of CPC. The proposed amendment is necessary for the purpose of fair and proper

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adjudication of the IA.No.19. Furthermore, the proposed amendment will not change the nature of the suit. Hence, no prejudice will be caused to the defendants if the application is allowed. Hence, in view of the above there is no impediment to allow the instant application. Therefore, in order to avoid multiplicity of proceedings and also in order meet the ends of justice, present application deserves to be allowed. **Accordingly point No.1 is answered in the Affirmative.**

10. Point No.2: In view of above reasoning on point No.1, I proceed to pass following:

ORDER

IA No.22 filed by the plaintiff U/o 6 rule 17
R/w Section 151 of CPC is hereby allowed.

Plaintiff is permitted to amend the
provision of law in the IA.No.19 as one filed
under order 16 rule 6 of CPC.

**CIVIL JUDGE & JMFC,
YADGIR.**