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**IN THE COURT OF CIVIL JUDGE AND JMFC., AT YADGIRI****PRESENT**

Sri. Arun Chougule,
B.A.LL.B.[Hons.]
Civil Judge and J.M.F.C,

Dated this the 27th day of September-2024

ORIGINAL SUIT NO.73/2022

PLAINTIFF/S:-	Yankappa S/o Ningappa Julube, aged about: 59 years, Occ: Agriculture, R/o: Tatalgera village, Tq: Gurumitkal, Dist: Yadgiri.
	(By Sri. N.R.K Advocate)
	-V/S-
<u>DEFENDANT/S:-</u>	1.Sarojamma W/o Sharanappa Julube, aged about: 49 years, Occ: Household, 2.Mahendra S/o Sharanappa Julube, aged about: 29 years, Occ: Agriculture 3.Srishaila S/o Sharanappa Julube, aged about: 24 years, Occ: Agriculture 4.Ambrish S/o Nagesh Julube, aged about: 24 years, Occ: Agriculture, 5.Shivaraj S/o Nagesh Julube, aged about: 22 years, Occ: Agriculture, 6. Siddalingappa S/o Mallappa Julube, aged about: 48 years, Occ: Agriculture,

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	7.Balappa S/o Mallappa Julube, aged about: 42 years, Occ: Agriculture, All are R/o Tatalgera village, Tq: Gurumitkal Dist: Yadgiri.
	(D-1 to 3 & 6 by Sri.D.M Advocate) (D-4, 5 & 7 are placed ex parte)

IN I.A.No.2

<u>Applicants/ plaintiff/s :</u>	Yankappa S/o Ningappa Julube,
<u>-V/S-</u>	
<u>Opponents/ defendants :</u>	Sarojamma W/o Sharanappa Julube and Others.

i.	<i>Provision under which the application is filed</i>	Order 6 Rule 17 Of CPC.
ii.	<i>Relief sought for</i>	<i>Permission to Amend the Plaint</i>
iii.	<i>The date on which the application is filed</i>	06-07-2024
iv.	<i>Number of the application</i>	IA No.2
v.	<i>The date on which the objections are filed by different opponents</i>	
vi.	<i>The date on which the orders were passed on the said application.</i>	27-09-2024

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**ORDER ON I.A.NO.2 FILED BY THE PLAINTIFF UNDER
ORDER 6 RULE 17 OF CPC.**

The plaintiff has filed the present application under Order 6 Rule 17 of CPC seeking permission to amend the plaint.

2. The plaintiff has sworn to an affidavit in support of the application stating that, he has filed suit seeking relief of partition and separate possession. That, due to inadvertence, the plaintiff did not mention the details of revenue entries of the suit lands at the time of filing the suit. That, the proposed amendment which relates to the details of revenue entries of the suit land is very much necessary for adjudication of the dispute and the same will not change the nature of the suit. Hence, the plaintiff prays to allow the application.

3. The defendants have filed objections denying the application averments as false, incorrect and baseless. That, no reasons are mentioned in the affidavit accompanying the application for not mentioning the pleadings of proposed amendment in the plaint. It is contended that the proposed amendment, if allowed, would change the nature of the suit and the cause of action. That, the defendants will be put to irreparable loss which cannot be compensated in terms of

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money, if the application is allowed. On these grounds, the defendants pray to dismiss the application with costs.

4. Heard the arguments of both side.

5. After hearing the arguments and perusal of pleading and records, the following points arise for my consideration.

1. Whether the application deserves to allowed?

2. What order?

6. My findings on the above points are as under;

Point No.1 : In the Affirmative

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

REASONS

7. **POINT NO.1:** The plaintiff has filed present suit seeking the relief of partition and separate possession claiming ½ share in the suit lands.

8. The case of the plaintiff, as per the plaint, is that one Thimayya was the propositus of the family of plaintiff and defendants, who died leaving behind two sons by names Basappa and Hanamantha. Said Hanamantha has died leaving behind a son by name Yallappa, and said Basappa has died

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leaving behind sons by names Mallappa and Ningappa. The plaintiff herein is the son of said Ningappa. The defendants No.6 and 7 are the sons of Mallappa. The defendant No.1 is the daughter in law and defendants No.2 to 5 are the grand sons of Mallappa.

9. The plaintiff states that the suit lands are the ancestral properties of himself and the defendants. The records of the suit lands are standing in the name of mother of the defendants and the defendants are not ready to effect partition and allot share to the plaintiff. Hence, the plaintiff was constrained to file the suit.

10. On receipt of summons, defendants No.1 to 3 and 6 appeared through their counsel but did not file their written statement inspite of giving sufficient time and opportunities. The defendants No.4, 5 and 7 have remained ex parte. As such, the matter came to be posted for evidence of the plaintiff.

11. Accordingly, the plaintiff got examined himself as Pw.1 and got marked Ex.P-1 to Ex.P-15 documents. When the matter was posted for further evidence of the plaintiff, he filed present

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application seeking permission to amend plaint. The proposed amendment is as under:

The earlier the suit property standing in the name of Mallappa S/o Bassappa Julbe, after the death of Mallappa all the suit lands are transferred and mutated in the name of Parvathamma W/o Mallappa in the ROR's still continued in the revenue records. Parvathamma also died leaving behind defendants as legal heirs. The defendants taking advantage of revenue entires in the name of their mother are denying the legitimate share of the plaintiff in the suit properties.

12. As already noted above, the plaintiff in his plaint stated that the suit lands are standing in the name of mother of the defendants. Now under the proposed amendment he is intending to bring on record the pleadings that suit lands were originally standing in the name of Mallappa S/o Basappa and after his death, name of his wife Parvathamma is mutated in the records. That, the defendants are the legal heirs of said Mallappa and Parvathamma and they taking undue advantage of name of their mother's name appearing in the records are denying the share of the plaintiff in the suit lands.

13. This court is of the opinion that, the proposed amendment, if allowed, would neither change the nature of the suit nor caused any injustice to the other side. The proposed amendment is merely an explanation to the pleadings already

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stated in the plaint. As such, the application deserves to be allowed. Hence, Point No.1 is answered in the Affirmative.

14. **POINT NO.2:** In view of the above discussion, the following;

ORDER

IA.No.2 filed by the plaintiff under Order 6 Rule 17 of CPC is hereby allowed.

The plaintiff is directed to amend the plaint and to furnish the amended plaint on or before next date.

No order as to costs.

(Dictated to the stenographer, transcribed by him, transcript corrected by me and then pronounced on this the 27th day of September, 2024.)

(ARUN CHOUGULE)
CIVIL JUDGE & JMFC,
YADGIRI.