

Order below application Exh. 49 in RCS 70/2014
Bharmaka Vs Dhurappa & Ors

The application is for amendment under Order 6 Rule 17 of the Code of Civil Procedure, 1908 (the C.P.C).

2 Perused the application, and the record.

3 The application is to proceed without say.

4 Heard Ld.advocate for the plaintiff. None present for the defendants whenever called out.

5 The suit is for partition, and other consequential reliefs. The contesting defendants have filed their written statement below Exh.26 and contested the claim. The Ld.Predecessor has framed issues below Exh. 28.

6 The application is premised on the ground, that the defendants 3.1 to 3.5 appeared in the matter and filed their written statement contending that the suit property has been transferred by way of a gift deed. The plaintiff applied for the relevent documents and learned that on 12/06/2025, defendant 1 has executed a registered gift deed in favor of defendant 4 and children of defendant 5. Further, vide a registered deed dated 03/11/2025 defendant 3.2 executed a gift deed in favor of his children. The same is bared under Section 52 of the Transfer of Property Act, 1882. Therefore, by way of proposed amendment in the cause title, para 8A, valuation para 12, substitution of proposed defendants 11 to 14 and the prayer have been sought for. A copy of the gift deeds have been produced on the record and the dates of the deeds when considered the date of the suit the same is apparently during the pendency of the suit.

7 It is settled law that Section 52 of the TP Act, does not prohibit or make the transfer pendent lite void, the fact remains this being a subsequent event having direct bearing on the final outcome has to be considered to avoid multiplicity of the proceedings. The presence of the proposed defendants is necessary to avoid multiplicity of the proceedings. The proposed amendment is necessary for deciding the real controversy between the parties which revolves around the suit property. Hence, the following

Order

The application is allowed.

2 The plaintiff to carry out the proposed amendment forthwith, and file on record duly amended copy within 7 days from today.

3 Costs in the cause.

Jath
Date:02/02/2026

(Sanjay P. Bunde)
Jt.C.J.J.D, Jath