

KABG510026892014



IN THE COURT OF PRL. CIVIL JUDGE AND J.M.F.C, GOKAK

Present: Smt. Chaitra V. Kulkarni

B.A., L.L.B., L.L.M.

**Prl. Civil Judge & J.M.F.C.,
GOkak.**

Dated this the 4th Day of September - 2025

Original Suit No.377/2014

Plaintiffs: Yallappa Kenchappa Mayagoudar and
Others,

(By Shri. M.R. Bhajantri, Advocate)

-V/s-

Defendant: Laxman Ramappa Manikeri,

(By Shri. S.S.Nidagundi, Advocate)

IA No.XVI

Applicant: Laxman Ramappa Manikeri,

-V/s-

Opponents: Yallappa Kenchappa Mayagoudar and
Others,

ORDER ON IA NO.16 FILED UNDER ORDER VI RULE 17
R/W 151 OF CPC

The present application is filed by the defendant and sought for amendment as per the application schedule. In support of this I.A, the defendant has sworn an affidavit and averred that, when the matter was posted for the reply argument, his counsel found few documents, which have not been produced in the suit and on going through said documents, his counsel advised him to get amended the written statement. Further, he obtained the said documents on advise of his counsel recently, hence on the basis of said documents, there are necessary pleadings to be pleaded in his written statement, hence he intends to amend the written statement . hence sought to allow the application.

2. On the other hand, the plaintiff has filed objections by denying averments of the affidavit and further contended that, in the evidence of the witnesses of plaintiff have already deposed about the case and defendant has already led the evidence without pleading in his written statement, hence at this stage, to overcome from such lecuna, defendant cannot be permitted to amend the written statement and there is delay in filing application and also the proposed schedule of amendment is false. Hence on all these grounds sought to reject the application.

3. Heard both sides, perused materials available on record.

4. The following points would arise for this court consideration:

1. Whether the defendant has made out sufficient grounds to allow this application?

2. What Order?

5. This court has answered the above points as under for the following reasons

Point No.1: In the **Affirmative**

Point No.2: as per final **Order** for the following

:: REASONS ::

6. Point No.1:- It should be noted that the present suit has been filed for the relief of declaration and permanent Injunction. The present application is filed to plead further in the written statement. It is the contention of the defendant that, as he obtained few documents recently, and some documents have already been produced, hence it is necessary to plead in the written statement regarding those all documents. It is also worthwhile to consider that, the defence of the defendant in the present form is

concentrated on attacking the case of the plaintiff on several grounds. Now, he wants to add few more grounds of attack the case of the plaintiff. As there is settled principle that, permitting to amend the pleadings at any stage is a rule and rejection is an exception. Ultimately, it is for the defendant to prove his defences as being urged in the application. Further, plaintiff has raised objection that, after conclusion of trial defendant has filed this application, but as per Order-VI R-17 of C.P.C, which states that, 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, however even though proviso to said provision states that, no application for amendment shall be allowed after the trial has commenced, unless the party demonstrates that they could not have raised the matter earlier despite due diligence. Here in case on hand, the proposed schedule of amendment appear to be inconsonese with the pleadings which are already existing in the written statement, hence said proviso does not bar the present defendant to file present application.

7. Further, in the objection plaintiffs have admitted that, the defendant has produced the docuemnts, without there being pleadings in the written statement, hence to

decide the lis effectively and fully and it also avoids multiplicity of proceedings, hence it is necessary to allow the application. Therefore, for the reasons assigned supra, this court is of the opinion that, by allowing the defendant to amend his written statement, no prejudice will be caused to plaintiff and nature of the defence will not be changed. Merely, defendant wants to add some more grounds of defences and delay in filing application can be compensated by imposing cost. Therefore, considering all these aspects of the case and totality of circumstances, I answer the point No.1 in the **Affirmative**.

8. Point No.2:- For the above said reasons, this court pass the following:

ORDER

I.A. No.16 filed by the defendant
U/Order VI Rule 17 R/w 151 of CPC is
hereby “Allowed”. With cost of Rs.1000/-.

Defendant is permitted to amend the
written statement as sought for.

(Dictated to the Stenographer, typed by his on computer and corrected by me, then pronounced in the open Court on this day 04th September, 2025.)

***Prl. Civil Judge & JMFC.,
Gokak.***