

**IN THE COURT OF THE ADDITIONAL CIVIL JUDGE AND
JMFC., AT GOWRIBIDANUR**

Dated this 12th day of August 2026

**:: PRESENT::
Smt. PUSHPA .D
B.Com, L.L.B.,**

**Addl. Civil Judge & J.M.F.C,
Gowribidanur**

ORIGINAL SUIT NO.374/2013

PLAINTIFF : Smt. Hanumakka

// Versus //

DEFENDANTS : Smt. Narasamma and another

**ORDER ON THE APPLICATION FILED BY APPLICANT UNDER
ORDER 6 RULE 17 R/W SEC.151 OF C.P.C**

This is an application filed by the applicant praying this court to permit the defendant No.2 to amend her written statement, as sought for in the application.

2. In the affidavit annexed to the application, the applicant averred that at the defendants have filed their written statement in the above suit and subsequent to the filing of the written statement, the averments stated in the proposed amendment is took place and it is very necessary to add in the written statement to prove the real controversy between the parties. The averments stated in the proposed amendment is, subsequent event which taken place in the family. By oversight or inadvertently the said fact is not included earlier and the delay in

adding this fact is only bonafide and not intentional one. If this application is not allowed the applicant will put to great loss. Hence, he prayed to allow this amendment application.

3. On the contrary, the plaintiff has filed detailed objections stating that the application is not maintainable either in law nor on facts on that ground, the said application is liable to be dismissed with cost. Defendant No.2 attempting to destroy the admitted facts in the written statement by way this amendment hence it is not permissible in law and she is attempting to furnish the 2nd written statement by way of amendment of written statement and also the defendant is attempting to fulfill the lacunae in the written statement by way of amendment. The plaintiff further states that, the applicant stated the reason in annexed affidavit averments all are totally denied as false and the defendant No.2 is suppressed the real and true facts in the written statement with on intention to mislead to Court by way of amendment the defendant is filed said application with an intention to delay and drag-on the proceedings and delay to delivery the justice to the plaintiff. If Court is allowed the said application the entire nature and character of suit will be changed on these grounds the above application is liable to be dismissed with cost.

4. Heard the learned counsel appearing for the parties. Perused the entire materials available on record placed before the court.

5. The points that arise for my consideration are as under ;

POINTS FOR CONSIDERATION

1. Whether defendant No.2 has made out sufficient grounds to allow the application ?
2. What order ?
6. My findings to the above points are as under :

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

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

:: R E A S O N S ::

7. **Point No.1** : It is pertinent to note that, the suit is filed by the plaintiff against defendants for the relief of Partition and Separate Possession.

Through this application, the Defendant No.2 has sought to insert the proposed amendment in the written statement.

For the sake of convenience, provision of Order VI Rule 17 is reproduced herewith:

“17. Amendment of pleadings.—The court may at any stage of the proceedings allow either party to alter or amend his pleading 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. Before dwelling upon the factual matrix, let me discuss some of the conceptual aspects to be borne in mind while considering the application for amendment. While considering the amendment application, the court must not go into the merits of the case and the court must bare in mind that it will not cause prejudice to the other side. Further more, the amendment sought for will minimize the multiplicity of proceedings and it should not take away the admissions made by the parties. With these conceptual aspects in the background, let me dwell upon the facts of the case. No doubt, as per the proviso clause of Order 6, Rule 17, no amendment shall be allowed after the trial begun. But there is an exception to the said proviso clause to an effect that the party who is seeking for amendment has to show the due diligence. In the instant case on hand, the defendant has specifically stated at the time of filing the written statement by oversight or inadvertently the said fact is not included earlier, hence she intends to insert the proposed amendment in the written statement. This itself can be inferred as a due diligence. Moreover, it is the burden on the defendant to prove what she has pleaded. When such being the case, it is the burden bestowed on the defendant to prove the same. The amendment is a discretionary matter. When such is the case, absolutely no prejudice would be caused to the plaintiff if this application is allowed. Moreover, the plaintiff is at liberty to say his say by way of filing rejoinder to the amended written statement. On the other hand, if this application is rejected, the defendant will be deprived with an opportunity to put-forth his case. The main intention of enacting Order 6, Rule 17 of CPC is to avoid multiplicity of proceedings. If this application is rejected, the defendant is forced to fight another round of litigation,

which is not at all an intention of the legislature in enacting order 6 Rule 17 of CPC. Since the amendment being the subsequent event, during the course of trial it has to be considered as per the dictum of Hon'ble Apex Court in catena of decisions. No doubt, there is a bar under amended provision of Order 6 Rule 17 to permit the defendant to amend the written statement after the trial has commenced. But the instant application comes within the ambit and sphere of proviso clause of the same. The defendant has shown that it is a subsequent event. Hence, it is just and necessary to consider the application. No doubt, there is a delay caused by the defendant in filing this application and that delay can be compensated in terms of the costs.

9. **Point No.2** : In view of my findings on Point No.1, I proceed to pass the following:

ORDER

The application filed by the defendant No.2 under Order 6 Rule 17 r/w. Section 151 of C.P.C. is hereby allowed on cost of Rs.800/-.

Defendant No.2 is hereby permitted to carryout the amendment in the written statement by 07.10.2026

(PUSHPA D.)
Addl. Civil Judge & J.M.F.C
Gowribidanur