

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

Dated this 22nd day of April, 2026

:: PRESENT::

Smt. PUSHPA .D

B.Com, L.L.B.,

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

ORIGINAL SUIT NO.370/2015

PLAINTIFF : Sri. Chandrakeerthi and others

// Versus //

DEFENDANTS: Sri. Hanumanthappa and others

**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 them to amend the plaint and prayer, as sought for in the application.

2. In the affidavit annexed to the application, the applicant averred that names of garnd father and his father name are similar ie., Venkatappa, hence, at the time of preparing the plaint by mistake it was not inserted and during the course of examination in chief, he has noticed there was typographical error in the plaint, as well as affidavit and G-tree affidavit. As soon as he

came to know about the said mistake, he has informed to his counsel and filed the present application. Hence, it is just and proper to insert the proposed amendment in the plaint. Further, the amendment does not change nature of suit. The amendment is very much necessary to determine the rights of parties. If this application is not allowed, the applicant will put to great loss or hardship. Hence, he prayed to allow this amendment application.

3. On the contrary, the defendants have filed detailed objections stating that the application is not maintainable either in law or on facts. The applicants have not made out any grounds to all the application. The grounds urged for allowing the application, is unsustainable under law. All the averments of the affidavit attached of the application is false and untenable. The proposed amendment is not just a typographical error, the plaintiffs themselves have no knowledge about their family history and the property, they have filed the present application after thought. When the case is set-down for cross examination of the PW.1, the plaintiffs have come with the present application, just to drag the proceedings of the case. It is settled principles of law that, after commencement of the evidence, no application is to be entertained for amending the pleadings. As such the present application is not maintainable in law. The proposed amendment absolutely changes

the nature and cause of actin of the suit. The applicants have come with new story under proposed amendment, to grab the property of the defendants. If the application is allowed, the defendants will be put great loss and hardship more than the plaintiffs, which cannot be compensated in any terms. Wherefore, it is respectfully prayed that, the application filed by the plaintiffs may kindly be dismissed with costs.

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 plaintiff 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 this suit is filed by the plaintiffs against defendants seeking for declaration and

permanent injunction. Through this I.A. under Order 6 Rule 17 of CPC, the plaintiff is seeking permission of the Court to insert the proposed amendment.

8. 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.”

9. 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 plaintiff has specifically stated his grand father name and his father name are similar hence while drafting the plain the mistake has crept in and while recording his examination in chief, he has noticed about the said mistake and as soon as he received this fact, he has filed the present application. This itself shows inferred as a due diligence. Moreover, it is the burden on the plaintiff to prove what he has pleaded. When such being the case, it is the burden bestowed on the plaintiff to prove the same. The amendment is a discretionary matter. When such is the case, absolutely no prejudice will be caused to the defendant if this application is allowed. Moreover, the defendant has the option to say his say by way of filing additional written statement. On the other hand, if this application is rejected, the plaintiff 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 plaintiff 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 plaintiff to amend the plaint after the trial has commenced. But the instant application comes within the ambit and sphere of proviso clause of the same. The plaintiff 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 plaintiff in filing this application and that delay can be compensated in terms of the costs. Accordingly, the point No.1 is answered in the **affirmative**.

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

ORDER

The application filed by the plaintiff under Order 6 Rule 17 r/w. Section 151 of C.P.C. is hereby allowed on cost of Rs.1000/-.

Plaintiff is permitted to carryout the amendment and to file amended plaint by
03.07.2026

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