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|---|--------------------------------------------------------------------------|-------------------------------------------------|
| 1 | <i>Provision under which the application is filed</i>                    | <i>Under order 6 rule 17 R/W Sec.151 of CPC</i> |
| 2 | <i>Relief sought for</i>                                                 | <i>For amendment of written statement</i>       |
| 3 | <i>The date on which the application is filed</i>                        | <i>20.08.2025</i>                               |
| 4 | <i>Number of the application</i>                                         | <i>IA No.4</i>                                  |
| 5 | <i>The date on which the objections are filed by different opponents</i> | <i>26.09.2025</i>                               |
| 6 | <i>The date on which the orders were passed on the said application</i>  | <i>27.09.2025</i>                               |

**ORDER ON APPLICATION UNDER ORDER 6 RULE 17 R/W  
SEC. 151 OF CPC FILED BY DEFENDANT - 2 (IA No.4)**

1. The defendant No.2 has filed the affidavit. In the affidavit it is stated that the plaintiffs have filed the suit against the defendant for the relief of partition and separate possession of the suit schedule property. The defendant No. 2 has stated that he is the absolute owner of the suit item No. 3 property which is also the written statement schedule property. At the time of filing written statement the facts stated in the schedule of the application was not mentioned due to oversight and inadvertence. The facts came to the knowledge of the defendant No. 1 recently and accordingly taken steps. Thus the mentioning of the proposed facts stated in the schedule of the application is quite necessary. Hence the application is filed. If the application is allowed no loss will be caused to other side. If the application is not allowed then the defendant No. 2 will be put to

*irreparable and legal injury. On these allegations sought for allowing the application.*

2. *On the other hand the plaintiffs have filed objections to the application by stating the application is not maintainable in law or facts. The defendant No. 2 has sworn to false affidavit. The proposed amendment as stated in the schedule of the application are all false. The defendant No. 2 unnecessarily seeking to amend the written statement. If the proposed amendment is allowed then the nature of the suit will be changed. The application filed by the defendant No. 2 is only to drag on the proceedings and it is a belated stage as the application is filed after commencement of evidence of plaintiffs. On these contentions sought for dismissal of the application.*

3. *Heard on application for both sides.*

4. *The points that arise for my consideration is as follows:*

**Point No.1: Whether the application i.e., IA No.4 filed by the defendant No. 2 under Order 6 Rule 17 of CPC to amend the written statement deserves to be allowed ?**

**Point No.2: What order?**

5. *My findings to the above points as under*

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

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

**REASONS**

6. **Point No.1:** *The defendant No. 2 has filed the application seeking for amendment of the written statement by stating that the proposed facts have not been stated in the written statement and the proposed facts were mistakenly due to typographical error left out and as such the facts stated in the schedule of the application is necessary to insert in the written statement and sought for allowing the application. On the other hand the plaintiffs have opposed the application by filing the detailed objection denying the allegations made against them and contended that the application is not sustainable and not permissible as the same is barred under law and as such the application is not tenable in this case and as such if the application is allowed then the nature of the suit will be changed and as such the application is not sustainable as the application is filed after commencement of trial and sought for dismissal of the application.*

7. *As the application is filed by defendant No. 2, it is necessary to know as to whether the relief sought for in the application is maintainable or not. The defendant No. 2 has sought for amendment of his written statement i.e., the defendant No. 2 wants to mention the facts i.e. wants to insert the facts as stated in the schedule of the*

*application. I have gone through the proposed facts stated in the schedule of the application. On going through the proposed facts stated in the schedule of the application, it goes to show that the defendant No. 2 wants to mention about the bonafide purchaser of the written statement schedule property in view of purchasing the said property. As the defendant No. 2 only wants to mention about the facts stated in the schedule of the application by granting permission to mention the proposed facts as stated in the schedule of the application no loss or hardship will be caused to the other side. If the permission is not granted then the defendant No. 2 will be put to irreparable loss. No doubt the counsel for plaintiffs has seriously argued and filed detailed objections. But, this argument canvassed by the counsel for plaintiffs is not sustainable because at this stage while deciding the present application the merits of the case must not be looked into. Further by giving permission to incorporate the facts as stated in the schedule of the application itself is not that the defendant No. 2 succeeded in the suit because the contention of the defendant No. 2 with respect to facts stated in the schedule of the application is required to be proved in the evidence as per law and as such without proving the same as per law it is not possible to accept the contention. Further the plaintiffs will be having*

*opportunity to file rejoinder and even the plaintiffs will get permission to cross examine the defendant No. 2 with respect to the proposed facts stated in the schedule of the application. Therefore, discouraging the relief sought for in the application is not proper and correct and as such the arguments canvassed by the counsel for plaintiffs is not acceptable at this stage. Thus the defendant No. 2 has made out prima facie case to consider the relief sought for in the application and as such in view of above discussion, I answer this point No.1 in the **Affirmative**.*

8. **Point No.2:** *In view above discussion I proceed to pass the following:-*

**ORDER**

***The application i.e., IA No.4 filed by the defendant No. 2 under Order 6 Rule 17 of C.P.C. is hereby allowed on cost of Rs.250/-.***

***For amendment and to furnish the amended written statement.***

***Call on 15.10.2025***

***I Addl. Sr. Civil Judge & JMFC.,  
Chitradurga.***