

**IN THE COURT OF ADDL. CIVIL JUDGE AND J.M.F.C.,**

**AT: CHALLAKERE.**

Present: **Sri. PUNITH .B.R.,**  
*B.A. LL.B.,*

Addl. Civil Judge and JMFC., Challakere.

**Dated on the 24th day of April 2026**

**OS No.66/2018**

Sri. Seenanaika

**.... Plaintiff**

**//Versus//**

Sri. Ramajinaika & others

**.... Defendants**

**PARTIES TO I.A. No.XIV**

Sri. Seenanaika

**.... Applicant/Plaintiff**

**//Versus//**

Sri. Ramajinaika & others

**.... Opponent/Defendant**

|                                                             |   |                                     |
|-------------------------------------------------------------|---|-------------------------------------|
| Provision under which application is filed                  | : | U/O 6 Rule 17 r/w Sec.151 of C.P.C. |
| Relief sought for                                           | : | To amend the plaint                 |
| The date on which application is filed                      | : | 12.02.2026                          |
| The date on which the objection is filed by the defendants  | : | 03.03.2026                          |
| The date on which the orders passed on the said application | : | 24.04.2026                          |

### **ORDERS ON IA No.XIV**

The present application is filed by the plaintiff u/o VI rule 17 of CPC seeking amendment of plaint as sought for in the application. The schedule of amendment sought is as under:

### **SCHEDULE**

After Para No.6 of the plaint insert as Para No."6(a) It is submitted that after servicing of suit summons the defendants have appeared through their advocate, thereby they have got well knowledge about the passing of temporary injunction by this Honourable Court. Though the defendants have got well knowledge about the issue of temporary injunction orders against them, the defendants willfully disobeyed the orders passed by this Honourable Court and put up construction in suit schedule property. The defendants have put up their construction in pending suit, thereby the alleged construction is illegal and the same is liable to be demolished.

2) In prayer column after prayed No.A) insert as Para No.AA) For grant of mandated injunction directing eh defendants to remove he constructions put up by the defendants in suit schedule property. If the defendants failure to remove the construction made by them in suit property, the Honourable Court be pleased to remove the same with due process of law.

2. The application is supported by an affidavit of plaintiff. Wherein it is averred that, he had filed the present suit seeking relief of injunction. When exparte order against the defendants was in force, the defendants willfully disobeyed the orders and has put up construction in suit property. Intimation of police authorities yeilded no result. Hence the present application is file seeking amendment of plaint narrating these facts and seeking relief of mandatory injunction of removal of illegal construction put up by defendants in suit property. Stating that the sought

amendment neither changes the nature of suit nor the cause of action, and that no loss or injustice would be caused to defendants, the plaintiff prays for allowing the application.

3. Per contra, the defendants have filed their objections contending that the application is not maintainable at this advanced stage of the proceedings. It is submitted that, after a full-fledged trial, the matter has been posted for arguments and the plaintiff has already commenced his arguments. The defendants further contend that the plaintiff had earlier filed an application under Order XXXIX Rule 2(A) of the CPC on 19.04.2018, and as on the date of filing of the said application, the plaintiff had sufficient knowledge of the alleged facts now sought to be introduced by way of amendment. It is also submitted that both parties have cross-examined the witnesses with regard to the alleged construction, thereby clearly establishing that the plaintiff was aware of these facts. Despite such knowledge, the plaintiff has chosen to file the present application after an inordinate delay of about eight years, which renders the application not maintainable. The defendants further deny the allegation that they had knowledge of the ex-parte temporary injunction order. It is also contended that the defendants had filed their written statement along with a counterclaim on 05.03.2022, to which the plaintiff filed a rejoinder, wherein the plaintiff has admitted the existence of the house of Defendant No.4. Thus, the plaintiff had prior knowledge of the alleged construction, and filing the present application at the stage of final arguments is not maintainable. On these grounds, the defendants submit that allowing the amendment would cause serious prejudice, loss, and injustice to them. Hence, they pray that the application be dismissed.

4. On the basis of the above, point for consideration is that:

**“Whether the plaintiff has made out sufficient grounds to allow the I.A.No.XIV U/o VI rule 17 of CPC?”**

5. Heard arguments. Perused materials on record.

6. My findings on the above point is in the "Affirmative" for the following:

### **REASONS**

7. The application is one filed under Order VI Rule 17 CPC seeking amendment of the plaint at a stage when the trial has already been concluded and the matter is posted for final arguments. Therefore, the proviso to Order VI Rule 17 CPC squarely applies, which mandates that no amendment shall be allowed after commencement of trial unless the Court comes to the conclusion that, in spite of due diligence, the party could not have raised the matter before commencement of trial.

8. In the present case, it is not in dispute that the plaintiff had knowledge of the alleged construction at least from 19.04.2018, when he filed an application under Order XXXIX Rule 2(A) of CPC. It is also borne out from the record that both parties have led evidence and have cross-examined witnesses on the aspect of construction. Therefore, strictly speaking, the plaintiff cannot be said to have been unaware of the facts now sought to be incorporated by way of amendment.

9. However, the question that arises is whether the amendment should be refused solely on the ground of delay and lack of due diligence, or whether the same is necessary for effective adjudication of the dispute. It is a settled principle of law that the object of allowing amendment is to enable the Court to determine the real questions in controversy between

the parties and to avoid multiplicity of proceedings. The procedural law is intended to serve as a handmaid of justice and not to thwart adjudication on merits.

10. In the present case, the original suit is one for injunction in respect of the suit schedule property. The proposed amendment seeks to incorporate the subsequent act of alleged construction made by the defendants in the very same property and to seek the consequential relief of mandatory injunction for its removal. Thus, the proposed amendment is intrinsically connected with the subject matter of the suit and arises out of the same factual matrix. If the amendment is refused, the plaintiff would be driven to file a separate suit for the relief of mandatory injunction, which would result in multiplicity of proceedings and may also lead to conflicting findings. Therefore, in order to comprehensively adjudicate the dispute between the parties, it is necessary to permit the amendment.

11. The contention of the defendants that the amendment is barred by limitation also requires consideration. It is true that the plaintiff had knowledge of the alleged construction from an earlier point of time. However, it is equally well settled that the question whether a claim is barred by limitation is, in many cases, a mixed question of law and fact, which requires adjudication on evidence. At the stage of considering an application for amendment, the Court is not expected to conclusively decide such issue, unless the bar of limitation is apparent on the face of the record and is beyond dispute. Further Hon'ble Apex Court **LIC v. Sanjeev Builders (P) Ltd., (2022) 16 SCC 1: 2022 SCC OnLine SC 1128 at page 36** has held as under:

**“71.9. Delay in applying for amendment alone is not a ground to disallow the prayer. Where the aspect of delay is arguable, the prayer for amendment could be allowed and the issue of limitation framed separately for decision.”**

12. Considering the above principle, in the present case, having regard to the nature of the relief and the circumstances pleaded, it cannot be conclusively held at this stage that the proposed claim is barred by limitation in such a manner as to non-suit the plaintiff without trial. Therefore, the said contention cannot be a sole ground to reject the amendment.

13. At the same time, this Court is conscious of the fact that the plaintiff has approached the Court with the present application after considerable delay and has not satisfactorily explained the same. The defendants have already completed their evidence on the basis of the original pleadings, and therefore, some degree of prejudice is likely to be caused to them if the amendment is allowed. However, such prejudice can be adequately compensated by imposing costs and by granting liberty to the defendants to file additional written statement and to adduce further evidence, if they so desire. Balancing the rights of both parties, and in order to advance the cause of justice, this Court is of the considered opinion that the amendment sought by the plaintiff deserves to be allowed, subject to imposition of costs. Accordingly the Court answers the point in affirmative and proceed to pass following:

**ORDER**

The IA.No.XIV filed by the plaintiff U/o. VI rule 17  
is hereby allowed on cost of Rs.2000/-.

The plaintiff is hereby permitted to amend the  
plaint as prayed for in the I.A.No.XIV.

[Dictated to the Stenographer directly on computer, typed by him, corrected, signed and then pronounced by me in the open Court on 24th day of April 2026]

(PUNITH .B.R.)  
Addl. Civil Judge & JMFC.,  
Challakere.

The IA.No. XIV filed by the plaintiff U/o. VI rule 17 is hereby allowed on cost of Rs.2000/-.

The plaintiff is hereby permitted to amend the plaint as prayed for in the I.A.No.XIV.

For amendment and amended plaint.

Call on: