

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 17th day of September 2025

OS No.87/2013

Bhagyamma

.... Plaintiff

//Versus//

G. Neelakantiah & others

.... Defendants

PARTIES TO I.A. No.VI

Bhagyamma

.... Applicant/Plaintiff

//Versus//

G. Neelakantiah & Others

.... Opponent/ Defendants

Provision under which application is filed	:	U/Sec. 151 of CPC
Relief sought for	:	To file replication / subsequent pleadings
The date on which application is filed	:	08.04.2025
The date on which the objection is filed by the defendants	:	17.04.2025
The date on which the orders passed on the said application	:	17.09.2025

ORDERS ON IA No.VI

The present application is filed by the plaintiff under Section 151 of the Code of Civil Procedure, seeking leave of this Hon'ble Court to file replication/subsequent pleadings in response to certain documents

produced by the 1st defendant during the course of his evidence, particularly an agreement of marriage that allegedly includes reference to certain movable articles relevant to the subject matter of the suit.

2. The application is supported by an affidavit of the plaintiff, wherein it is averred that the said document was produced at the during the examination in chief of defendant No.1 which necessitates reply to it. It is submitted that it is not practicable to seek an amendment to the plaint at this stage and that law permits a party to file replication or rejoinder in appropriate circumstances where the opposite party introduces new facts or documents during trial, with the leave of the Court.

3. The defendants have filed objections to the application, opposing the grant of leave. It is contended that the law does not permit the plaintiff to file a reply merely in response to documents produced during evidence, especially in the absence of a counter-claim. The defendants further allege that the application is an abuse of the process of Court and is intended to delay the proceedings.

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

“Whether the plaintiff has made out sufficient grounds for granting leave permitting him to file replication/ subsequent pleading by allowing the application?”

5. This Court have heard the learned counsel for both the parties and also perused the pleadings, the impugned application, the affidavit, the objections, placed on record. On that basis, finding of this Court on the above point is in the **"Negative"** for the following:

: REASONS :

6. **Point No.1:-** The principal issue that arises for consideration is whether the plaintiff can be permitted to file a replication/subsequent pleading at this stage of the suit, particularly to rebut the contents of a document i.e., agreement introduced by the 1st defendant during his evidence.

7. Order VIII Rule 9 of the CPC clearly lays down that:

“No pleading subsequent to the written statement of a defendant other than by way of defence to a set-off or counter-claim shall be presented except by the leave of the Court...”

This provision vests discretion in the Court to allow subsequent pleadings when necessary in the interests of justice.

8. The plaintiff relies upon the decision of the Hon'ble Karnataka High Court in **Krishnamurthy v. Hanumakka & Others, 2019 (4) KCCR 3032**, to contend that filing of a replication is permissible even in the absence of a counter-claim, provided that the pleading is confined to addressing new facts or documents brought in by the other side, and that such leave must not be denied mechanically. It is pertinent to extract para 6 and 7 of the in which the Hon'ble High Court has discussed earlier judgments on the very same aspect.

“6. A Co-ordinate Bench of this Court (Noronha, J) in the case of R. Dayananda Sagar v. Vatal Nagaraj [(1972) 2 Mys LJ 328.], at para 13 observed: Order VIII Rule 9 of the Code refers to a pleading subsequent to the written statement of a defendant, to be filed by leave of the Court. The word “pleading” would, as it

appears to me, include a reply Statement of the plaintiff. In the case of Mohammed Abdul Gafoor v. Peddappayachari [RSA No. 585/1974.] , another Co-ordinate Bench (G.N. Sabhahit, J) observed that, Order VIII Rule 9 of the Code of Civil Procedure which speaks of subsequent pleadings makes it manifest that, if, in the written statement, the defendant sets out a counter-claim or claims a set off, the plaintiff has a right of reply to the written statement and that forms part of the pleadings. If the plaintiff wants to file an additional statement, however, in other cases, he has to seek and take the permission of the Court. The Apex Court in the case of K. Laxmanan v. Thekkyl Padmini [(2009) 1 SCC 354 : AIR 2009 SC 951.] , at paragraph 31 observed “31. Pleadings as we understand under the Code of Civil Procedure (for short the “Code”) and as is defined under the provision of Rule 1 Order VI of the Code consist only of a plaint and a written statement. The respondents/plaintiff could have filed a replication in respect to the plea raised in the written statement, which if allowed by the Court would have become the part of the pleadings, but mere non filing of a replication does not and could not mean that there has been admission of the facts pleaded in the written statement.”

7.Yet another Co-ordinate Bench (Ajit J. Gunjal, J) in the case of Amalgamated Bean Coffee Trading Co. Ltd v.

Zarir Minoo Bharucha [ILR 2005 Kar 2089.], after referring to Dayananda Sagar Case supra, at para 10 observed:

“Order 8 Rule 9 would deal with a subsequent pleading which is filed subsequent to the filing of written statement of a defendant. It is not a case where the rejoinder is being filed to claim a set off or a counter claim. It is in the nature of a replication filed to the written statement, which is always permissible under the law. The Code of Civil Procedure for from pinning down the plaintiff to the plaint and the defendant to the written statement does contemplate further pleading. It is permissible to the plaintiff petitioner to file a replication to add to his pleas already made in the plaint. The only condition is the leave of the Court. It is only meant for denying or clarifying the facts stated in the written statement. Fresh cause of action or fresh case is not brought about by filing replication. It is mainly clarificatory in nature.

Consequently, I am of the considered view that the Learned Trial Judge was not justified in rejecting the leave to file replication on the ground that it does not squarely fall under Order 8 Rule 9 of the Code of Civil Procedure.”

9. The **Hon’ble High Court in Krishna murthy’s** case mentioned supra by considering the decision in ***R.Dayananda Sagar’s Case, Mohammed Abdul Gafoor’s case, Amalgamated Bean Coffee Trading Co. Ltd’s Case*** as extracted herein above has given leave to file reply by holding ad under: “granting of leave to the petitioner/plaintiff to file Additional Pleadings by way of Reply/Replication to the contentions in

the Written Statement would prejudice none. Conversely, denial of leave is likely to prejudice the petitioner/plaintiff, although the non-denial by him of the contentions in the Written Statement would not amount to their admission at all”

10. Thus from perusal of the above decision and the order VIII rule 9 it stands clarified that additional pleadings other than reply to counterclaim or set off can be filed but with leave of the Court and the Court is granted discretion. Decision in **Krishna murthy's case** mentioned supra which is passed by considering the decision in **R. Dayananda Sagar's Case, Mohammed Abdul Gafoor's case, Amalgamated Bean Coffee Trading Co. Ltd's Case** guides this Court in exercising the discretion.

11. At the cost of repetition, **R. Dayananda Sagar's Case, Mohammed Abdul Gafoor's case** clarifies that additional pleadings can be filed with leave of the Court. In **Amalgamated Bean Coffee Trading Co. Ltd's Case** since the additional pleading sought in that case was meant for denying or clarifying the facts stated in the written statement and that no Fresh cause of action or fresh case is not brought about by filing replication, the plaintiff was granted the leave. In Krishna murthy's leave was granted since it was reply to written statement and no prejudice was caused to other party. Applying this to the case on hand this Court has perused the replication/ subsequent pleading annexed along with the application. The same clarifies that a new aspect of registered partition dated 18.06.1981 is pleaded which is neither pleaded by defendant in their written statement nor by the plaintiff in the earlier plaint. And the entire pleadings is with respect the said aspect. Thus it is clear that replication/subsequent pleading sought to be filed is not for clarifying the aspect in the written statement but a new fact is pleaded. This Obviously

prejudice the other party i.e. defendant. Further the plaintiff himself in the affidavit annexed to the application has averred that since plaint cannot be amended, the present application is filed. Which supports that an effort is made to bring new facts.

12. Thus it can be concluded that by replication/subsequent pleading the plaintiff is not replying the document or contents of the written statement but is trying to bring forth new fact. The decision **Krishnamurthy v. Hanumakka & Others, 2019 (4) KCCR 3032** is not applicable to case on hand because in concluding para no. 11 sufficing reason for granting leave the Hon'ble High court has held that since additional pleading was reply to contentions of the written statement which does not prejudice the party, the leave was granted. This decision is not applicable to case on hand as new facts are pleaded and present. Further the plaintiff has also relied on W.P No. 47014-47015 of 2014 ; Syed Abed Hussain and another V/s Thahera Banu and others , in this case subsequent pleading were permitted since written statement was amended . Hence not applicable to case on hand.

13. Due to the above discussions and aspects, considering the Krishna murthy's case which is passed by considering the decision in R. Dayananda Sagar's Case, Mohammed Abdul Gafoor's case, Amalgamated Bean Coffee Trading Co. Ltd's Case mentioned supra, this Court is of view that the plaintiff has not made out any grounds to grant leave for filing subsequent pleadings. Accordingly, the Court has answered the point in "Negative" and proceeds to pass the following:

ORDER

The I.A No. 6 filed by the plaintiff under section 151 of CPC is hereby rejected.

No order as to costs.

[Dictated to the Stenographer directly on computer, typed by her, corrected, signed and then pronounced by me in the open Court on 17th day of September 2025]

(PUNITH.B.R.)

Addl. Civil Judge & JMFC.,
Challakere.