



**IN THE COURT OF THE PRL.CIVIL JUDGE & JMFC, AT
KADUR**

PRESENT:- SMT.AMRIN SULTANA B.A, LL.B.,

Prl. Civil Judge & JMFC, Kadur

Dated this 5th day of February 2026

O.S.NO.53/2023

PLAINTIFF

Sri.Manjunatha S/o Nagappa,
Aged about 53 years, Coolie work,
R/o Ashoka Nagara, Birur town,
Kadur Taluk, Chikmagalur
District.

(Reptd. by Sri. SNG., Advocate)

V/s-

DEFENDANTS

01 Smt.Akkamma W/o Manjunatha,
Aged about 43 years, Housewife,

02 Manjunatha S/o Nagappa, Aged
about 50 years, Coolie work,

Both are R/at.Bhagavathnagara,
Birur town at Post, Kadur Taluk,
Chikmagaluru District.



(Reptd. by Sri. M.N., Advocate)

I.A. No. V

**APPLICANT/
PLAINTIFF**

: Smt.. Akkamma

-V/s-

**OPPONENTS /
DEFENDANT/S**

: Sri.Manjunatha

1.	Number of IA	I.A.No.V
2.	Provision of law	Under Order 6 Rule 17 R/w Sec.151 CPC
3.	Filed by	Plaintiff
4.	Date of filling	21.11.2025
5.	Date of filling of objections	26.11.2025
6.	Date of Order	05.022026

ORDERS ON I.A NO. V

The plaintiff has filed the present suit seeking the relief of permanent injunction, restraining the defendant from obstructing, interfering with, or disturbing the peaceful possession and enjoyment of the suit schedule property.



2. When the matter was posted for defendant's evidence, the defendants filed I.A. No.5 under Order VI Rule 17 of the Code of Civil Procedure, seeking permission to amend the written statement by incorporating additional facts in paragraphs 7(A).

3. In the affidavit filed in support of the application, Defendant No.1 has stated that the plaintiff is not the absolute owner in possession of the suit property bearing No.41 ,measuring 20 feet × 30 feet, situated at S Nijalingappa Badavane, Birur Town, Kadur Taluk. It is contended that the said property was granted by the Town Municipality, Birur, in favour of the defendant under the Ashraya Scheme.

4. It is further stated that pursuant to such grant, the defendants have constructed an iron-sheet roofed house in the southern portion of the property, leaving vacant space on the northern side, and are residing therein along with their family members. The Town Municipality, Birur, has issued a No objection certificate enabling the defendants to obtain an electricity connection. Accordingly, electricity connection has been sanctioned by MESCOM, and the defendants have been regularly paying electricity charges. It is also stated that the defendants are paying property tax to the Town Municipal



authorities. It is averred that due to mistake and oversight, the above material facts could not be incorporated in the written statement at the time of its filing and that such omission was neither wilful nor deliberate. The defendants submit that these facts came to their knowledge only subsequently and are necessary for proper adjudication of the real controversy between the parties. Hence, the defendants have filed the present application seeking permission to amend the written statement to incorporate the aforesaid facts.

5. On the other hand, the learned counsel for the plaintiff has filed a statement of objections contending that the plaintiff has already completed his evidence and that the matter is presently posted for defendant's evidence. At this advanced stage of the proceedings, the amendment sought by the defendants is highly belated and not maintainable in law.

6. It is specifically contended that in view of the proviso to Order VI Rule 17 of the Code of Civil Procedure, once the trial has commenced, no amendment shall be allowed unless the party seeking amendment satisfies the Court that despite due diligence, the matter sought to be introduced could not



have been raised earlier. In the present case, the defendants have utterly failed to demonstrate any due diligence.

7. The facts sought to be introduced by way of amendment are within the exclusive knowledge of the defendants from the very inception of the proceedings. The alleged grant under the Ashraya Scheme, construction of the house, possession, payment of taxes, and electricity connection are all matters which, if true, ought to have been pleaded at the first instance. The omission to plead such facts cannot now be explained away as a mere mistake or oversight. It is further contended that the present application is not bona fide and is filed only with an intention to fill up the lacunae exposed during the course of the plaintiff's evidence. Permitting such an amendment at this stage would cause serious and irreparable prejudice to the plaintiff, who has led evidence and concluded the same on the basis of the original pleadings.

8. Allowing the proposed amendment would necessarily require recalling of witnesses and reopening of the case, thereby causing undue delay and defeating the very object of expeditious disposal of the suit. The proposed amendment also changes the nature and character of the defence and



amounts to setting up an entirely new case, which is impermissible in law. The plaintiff further contends that the application is malafide, vexatious, and filed only to protract the proceedings and defeat the ends of justice. Hence, the plaintiff prays that I.A. No.5 be dismissed with costs, in the interest of justice and equity.

9. Hard arguments from both sides, perused materials available on records. The following points would arise for the determination of this court.

1. Whether the defendants have made out sufficient grounds and shown due diligence, as required under the proviso to Order VI Rule 17 of the Code of Civil Procedure, to permit amendment of the written statement at this stage of the proceedings?
2. What order?

10. Heard counsel appearing for the plaintiff. Perused the entire records and documents available and my findings on the above points are answered as follows:



Point No.1: In the affirmative

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

REASONS

11. Point No.1:- It is not in dispute that the amendment application has been filed after commencement of trial and after the plaintiff has concluded his evidence. Therefore, the proviso to Order VI Rule 17 CPC is clearly attracted. However, the said proviso does not impose an absolute bar on amendments after commencement of trial, but only casts an obligation on the party seeking amendment to explain the delay and satisfy the Court that the amendment is necessary for proper adjudication of the dispute.

12. On perusal of the affidavit filed in support of I.A. No.5, the defendants have explained that the omission to plead the facts relating to the alleged grant under the Ashraya Scheme, construction of the house, and possession was due to mistake and oversight. The facts sought to be introduced are directly connected with the issue of possession, which is central to a suit for permanent injunction. The proposed amendment does not change the fundamental nature of the defence, but only elaborates the



basis on which the defendants claim possession over the suit schedule property.

13. At the same time, this Court cannot lose sight of the fact that the amendment has been sought at a belated stage, after the plaintiff has completed his evidence. The plaintiff has been put to inconvenience and has incurred expenditure in leading evidence on the basis of the original pleadings. Therefore, while permitting the amendment, it is necessary to compensate the plaintiff by imposing costs, so as to neutralise any prejudice caused due to the delay.

14. The imposition of costs would also serve the dual purpose of discouraging negligent pleadings and ensuring that the defendants do not derive any undue advantage from their lapse, while at the same time enabling the Court to decide the real controversy between the parties. It is well settled that where prejudice can be compensated by costs, amendment ought not to be refused solely on the ground of delay.

15. Considering the stage of the proceedings, the nature of the amendment sought, and the inconvenience caused to the plaintiff, this Court is of the considered view that the



amendment can be allowed subject to payment of reasonable costs, thereby balancing the equities between the parties. Accordingly, **Point No.1 is answered in the Affirmative.**

16. Point No.2 : in view of the above, I proceed to pass following;

ORDER

I.A. No.5 filed by the defendants under Order VI Rule 17 of the Code of Civil Procedure is allowed, subject to payment of costs of Rs.1,500/-.

The defendants are permitted to carry out the amendment to the written statement as prayed for, within 14 days from the date of this order and shall file amended written statement.

(Order dictated to the stenographer on computer typed by her, revised, corrected & then pronounced by me in open court on this the 5th day of February 2026)

**(SMT. AMRIN SULTANA),
Prl. CIVIL JUDGE &J.M.F.C.,
KADUR.**