



IN THE COURT OF THE PRL. CIVIL JUDGE & JMFC.,
KUNIGAL.

Present:

Smt Sujatha A.B., B.A.L., L.L.B.,

Prl Civil Judge & JMFC., Kunigal.

Dated this the 1st day of June, 2026

O.S.No. 335/2015

Plaintiff : Sri. S. Shivanna
 (By Sri. K.N.R., Advocate)

V/s

Defendants : Smt. Jayamma and others
 (D-1 by Sri. V.G.L., Advt.,
 D-3 by Sri. K.N.S., Advt.,
 D-1(a,b) by Sri. K.G.P., Advt.,
 D-2 is Exparte)

I.	Provision under which the application is filed	Under Order 6 Rule 17 of CPC
II.	Relief sought for	For amendment of written statement
III.	The date on which the application is filed	07.10.2021
IV.	Number of the application	V



V.	The date on which the objections are filed by	26.11.2021
VI.	The date on which the order were passed on the said application	01.06.2026

RANK OF PARTIES ON I.A.No. V

Applicants : Smt. Kempamma (defendant NO.3)

V/s

Opponent : Sri Shivanna (plaintiff)

ORDERS ON APPLICATION FILED BY DEFENDANT No.3 U/O. VI RULE 17 OF CPC.,

This application is filed by defendants under order VI Rule 17 of CPC, praying this court to permit them to amend the written statement.

2. In annexed with the application the defendant No.3 contended that plaintiff has filed the suit for the relief of partition in respect of suit schedule properties which were purchased by her under registered sale deed dated 16.12.2003



from its lawful owner by name Ningamma who is none other than mother of the plaintiff and same were acquired by Ningamma under registered Will dated 06.11.1993 executed by Siddaiah who is father of the plaintiff. Defendant No.3 stated that she has filed written statement on 25.01.2016 and she was handed over the entire documents and given all the information to her previous counsel to file her written statement and to proper defence i.e., the suit filed by her is for partial partition since all the family properties has not included in the suit. Recently her previous counsel died due to ill health and she has engaged another counsel and he filed vakalath in this suit and after due verification her counsel informed that some of the defence has not been taken in her written statement which was drafted by her previous counsel. After due verification and documents she came to know that defence mentioned in the annexed application is very much necessary in this proceedings



since the suit of the plaintiff is for partition and she intended to amend the written statement by incorporating 2 more paras as 21(a) and 21(b) to adjudicate the matter effectively. Further defendants stated that she has having good defence in this case and if the application is not allowed she will be put into irreparable loss and injury which cannot be compensated by any means and proposed amendment will not change the nature of the defence. Hence prayed to allow the application.

3. Plaintiff has filed objections to the present application and contended that the trial has been commenced very long back and now case is set down for the further plaintiff evidence. Now the applicant has filed false application with an intention to harass the plaintiff and defendant No.3 cultivated the habit of filing the application time and time again. So above application is filed with an intention to drag the proceedings and same is delay tactics by the applicant. Further defendant



No.3 has not given proper reasonable cause to file this application and the cause shown in the application is not sustainable under law. The applicant has not assigned any reason with respect to said amendment and even after due diligence he could not traced out the said mistake at the earlier stage of this case. Hence, prayed to dismiss the application.

4. Heard arguments.

5. In light of the above contentions, the infra points that would arise for my consideration.

1. Whether the present application as sought by the defendants is just and necessary for the proper adjudication of the matter involved in the suit?

2. What order?

6. My findings on the above points are as under:

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

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



REASONS

7. **Point No.1:** The plaintiff has filed this suit for the relief of partition in respect of suit schedule property. On perusal of the written statement filed by defendants dated 10.02.2016 at para No.11 to 13, 15 and 16 it was contended that OS No.37/2000 was filed by the plaintiff and same was disposed off and therein he also taken contentions with regard to Will dated 06.10.1993. So on perusal of proposed amendment the said pleadings were already taken by defendants and by way of proposed amendment they intending to elucidate the same.

8. At this stage, this court would like to refer the following decisions. In **AIR 2007 SC 1663**, the Hon'ble Supreme Court of India has held that "It is equally well settled principle that a prayer for amendment of the plaint and a prayer for amendment of the written statement stand on different footings. The general principle that amendment of pleadings



cannot be allowed so as to alter materially or substitute cause of action or the nature of claim applies to amendments to plaint. It has no counterpart in the principles relating to amendment of the written statement. Therefore, addition of a new ground of defence or substituting or altering a defence or taking inconsistent pleas in the written statement would not be objectionable while adding, altering or substituting a new cause. Such being the settled law, we must hold that in the case of amendment of a written statement the courts are more liberal in allowing an amendment than that of a plaint as the question of prejudice would be far less in the former than in the latter."

9. In **AIR 2007 SC 2511** the Hon'ble Apex Court has held that "It is permissible in law to amend written statement of the defendant by which only an additional ground of defense has been taken". So, on considering the above it appears that



present application is needs to be allowed to resolve the dispute between the parties. However, it is made clear that merely because this application is allowed, it does not mean that this court has accepted the plea of defendants straightaway. Further, the merits of the case cannot be decided while considering this application. The amendment is always subject to proof. With these observations, this court is of the opinion that proposed amendment of written statement as sought in the application is necessary for full and effective adjudication of the matter in dispute. However delay caused by defendants can be compensated by imposing the costs. Accordingly, this court has answered Point No. 1 in the ***Affirmative.***

10. Point No.2: For the above discussed reasons, this court proceeds to pass the following:

**ORDER**

IA NO.V filed by the defendant No.3 under order VI Rule 17 of C.P.C. is hereby allowed on costs of Rs.1,000/-.

Defendant No.3 is permitted to amend the written statement as sought in the application.

To carryout amendment and to file amended written statement by

[Dictated to the stenographer directly on computer and then corrected by me and thereafter pronounced in the open court on this the **1st day of June, 2026.**]

Sd/-
(Sujatha A.B.)
Prl. Civil Judge and JMFC,
Kunigal.