

ORDERS ON I.A.NO.X

The present application has been filed by the defendant when the matter has been posted for defendant evidence. The defendant has filed the present application U/O 6 Rule 17 of CPC seeking leave of this Court to amend the written statement by deleting the word plaintiff in its place to add word defendant in para No.5 and the word the defendant and his hench men to be deleted in its place the word plaintiff and his hench men to be added in para No.5 of the written statement.

2. The defendant has filed an affidavit in support of present application wherein contended that the fact which is sought for deletion is pleaded due to typographical error. The said typographical error got into his notice while preparing the affidavit in lieu of his examination in chief. The proposed amendment will not alter the defence or detrimental to the facts in issue. On these grounds, the defendant prays for allowing the present application.

3. On the other hand, the plaintiff has filed no objection to the present application.

4. Heard the arguments of both side.

5. In view of the above contentions of the both parties, the following points arises for consideration of the above application;

1. Whether the defendant makes out sufficient grounds to permit him to amend the written statement as sought for?

2. What order ?

6. The answers of this Court for the above points for consideration are as follows;

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

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

REASONS

7. POINT No.1: The present suit has been filed by the plaintiff against the defendant seeking for the relief of declaration and partition. When the matter has been posted for defendant evidence, the defendant has come up with this application by stating that while preparing the affidavit he came across the typographical mistake made while preparing the written statement.

8. Order VI rule 17 of Code of Civil Procedure is very clear that the amendment sought before commencement of trial shall have to be allowed without expecting due diligence and that the amendment sought after commencement of trial shall have to be allowed only on sanctification that in spite of due diligence, the party could not have sought for amendment at the earlier point of time.

9. The fact sought for deletion by the defendant is not in the nature of any admission and that the same is not required for the purpose of adjudication of real question in controversy between the parties. By permitting the proposed amendment, no new defence will be brought on record and the proposed amendment will in no way prejudice the case of plaintiff. If the proposed amendment is not permitted, then the fact proposed to be deleted would lead for

creating confusion in determining the issue involved in this suit. Hence, this Court answers point No.1 in **“Affirmative”**.

10. Point No.2: In view of the reasons recorded on the above Point No.1, this Court deems it fit to allow the present application. Hence, this Court proceeds to pass the following:

ORDER

**I.A.No.X filed by the defendant
U/O 6 rule 17 of CPC, is hereby
allowed.**

**Defendant is permitted to
carryout amendment in the written
statement as sought for in I.A.No.X.**

**For carrying out amendment
and to file amended written
statement by: 04.07.2025.**

Sd/-
Addl. Civil Judge & JMFC.,
Mudigere.