



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

PRESENT: Sri. Jeethu R.S. B.A.L. LL.M
Civil Judge & J.M.F.C, Sringeri

DATED THIS THE 8th DAY OF JANUARY 2026

ORIGINAL SUIT No. 42/2022

BETWEEN:

Sri. H.S. Narayaa Bhatta,
S/o Late. Shesha Bhatta,
Aged about 65 years,
R/o Heggadde, Kavadi Village,
Sringeri Taluk.

PLAINTIFF

(By Sri. H.G. Vamadeva, Advocate)

-AND-

Sri. H.M. Hiriyanappa,
S/o Late. Manjappaiah,
Aged about 70 years,
R/o Heggade, Kavadi Village,
Sringeri Taluk.

DEFENDANT

(By Sri. Sashibhushan, Advocate)

IN I.A.NO. V

Sri. H.M. Hiriyanappa,

APPLICANT/ DEFENDANT

-AND-

Sri. H.S. Narayaa Bhatta,

OPPONENT/ PLAINTIFF



ORDER ON I.A.No. V UNDER ORDER 6 RULE
17 R/W SECTION 151 OF CPC.

This is the application filed by the applicant/defendant seeking to grant permission to amend his written statement by adding the para no. 6(A) and carry out the proposed amendment in the Written Statement of Defendant.

2.The defendant/ applicant in the affidavit annexed to the above I.A. No.V has stated that the proposed amendment in his written statement is very much necessary for just determination of the disputes involved in the suit. Further it is contended that the proposed amendment touches the root of dispute between the parties. Hence, prays to allow the application.

3.On receipt of application, the plaintiff has filed objection wherein the plaintiff has stated that, the application is not maintainable either in law or facts also. Further it is stated that in order to drag the proceedings the plaintiff has come up with the frivolous application. Therefore prayed to dismiss the application.

4. Heard both side perused the material on record.

5. The points that arise for consideration are:

Point No.1 : Whether the defendant has made out the grounds to allow the application filed under Order 6 rule 17 r/w Section 151 of C.P.C?

Point No.2 : What order ?

6. My answer to the above points are as under:

Point No.1 : In Affirmative

Point No.2 : As per final order :



REASONS

7. **Point No.1:** This suit is filed for relief of permanent Injunction against the defendant seeking to restrain the defendant from forming any cart road in suit schedule property.

8. The defendant has filed written statement before the Court after his appearance. He has denied the averments pleaded in the plaint. This court has carefully perused the proposed amendment sought for by the defendant in the written statement. The Proposed amendment is with respect to the earlier round of litigation taken place before the jurisdictional court pertaining to the same subject matter. As such, the defendants as raised the deference of principal of resjudicate in the proposed amendment.

9. Per contra, the counsel for plaintiff vehemently argued that the case is set down for cross examination of DW-1, as such the trial has already began. Therefore the proposition of law under order 6 rule 17 r/w Section 151 of C.P.C could not aid the defendant at this belated stage to carry out the proposed amendment and further has submitted the averements stated in the annexed affidavit to the above application are false and as such prays to dismiss the application.

10. At this juncture this court refers to the judgment of Hon'ble Apex Court in Revajeetu Builders Vs. Narayana Swamy case reported in AIR 2009 SC 2544. The relavant portion of the judgment of the Hon'ble Apex Court is herewith reproduced.

"67. On critically analyzing both the English and Indian cases, some basic principles emerge which ought to be taken into consideration while allowing or rejecting the application for amendment.

(1)Whether the amendment sought is im-perative for proper and effective adjudication of the case?



(2) Whether the application for amend-ment is bona fide or mala fide?

(3) The amendment should not cause such prejudice to the other side which cannot be compensated adequately in terms of money;

(4) Refusing amendment would in fact lead to injustice or lead to multiple litigation;

(5) Whether the proposed amendment constitutionally or fundamentally changes the nature and character of the case?and

(6) As a general rule, the court should decline amendments if a fresh suit on the amended claims would be barred by limitation on the date of application.

68. These are some of the important factors which may be kept in mind while dealing with application filed under Order VI Rule 17. These are only illustrative and not exhaustive.

69. The decision on an application made under Order VI Rule 17 is a very serious judicial exercise and the said exercise should never be undertaken in a casual manner.

70. We can conclude our discussion by observing that while deciding applications for amendments the courts must not refuse bona fide, legitimate, honest and necessary"amendments and should never permit mala fide, worthless and/ or dishonest amendments."

11. Now coming back to the case on hand, the defendant has filed the above application seeking to allow him to carry out the proposed amendment in the written statement. As could be seen from the contents of the proposed amendment the said facts are related to the earlier round of litigation said to be taken place between the plaintiff and defendant and as such the defendant intends to plead about the details of the earlier suit and the application of resjudicata in the case on hand in order to



defend his case in the above suit. Further even otherwise looking into the other aspect of the proposed amendment as sought in the written statement, it would not prejudice the case of the plaintiff. But on the other hand the proposed amendment would reduce the burden of determination of dispute between the parties. Further the proposed amendment would also not change the nature of the suit and cause hardship to the plaintiff. Further the proposed amendment is for determination of the dispute between the parties. Further the ratio laid down by the Hon'ble Apex Court mention supra also come in aid to the facts and circumstances of the above case at this juncture at the time of considering the above application.

12. The plaintiff is always having opportunity to disprove the objection of the defendant. Further the plaintiff would not be put to irreparable loss or would prejudice with the proposed amendment. Hence, **Point No.1** is answered in **Affirmative**.

13. **Point No.2:** In view of the above discussion, this Court proceeds to pass the following:

ORDER

I.A.No. V filed by the defendant under Order VI Rule 17 r/w Section 151 of C.P.C., is hereby allowed subject to payment of costs of Rs.300/- to the plaintiff.

The defendant is permitted to carry out the proposed amendment by adding the Para No. 6(A) in the written statement as sought for and to file amended written statement.

(Dictated to the Stenographer, translated by him, corrected by me and pronounced in the open Court today this the 8th day of January 2026)

Sd/- XXX 08.01.2026

(Sri. Jeethu R.S)
Civil Judge & JMFC, Sringeri