

**IN THE COURT OF THE PRINCIPAL CIVIL JUDGE AND  
J.M.F.C., AT KOLLEGALA**

**:PRESENT:**

**SMT. NANDINI.M.N, B.A.LLB.,**  
Prl.Civil Judge and JMFC.,  
Kollegala.

**Dated this the 07<sup>th</sup> day of August 2023**

**ORIGINAL SUIT NO.67/2010**

**PLAINTIFF**

Smt. Thripurambika

**(By Sri. M. Ravikumar., Advocate)**

**V/S**

**DEFENDANTS**

Smt. Devamma & Others

**(D1& D2 by Sri Madappa, Advocate )**

**(D3 by Sri D. Ashok, Advocate)**

**(D4 by Sri BN., Advocate )**

**(D5 & D6 by Sri Pradeep.R, Advocate)**

**(D7 By Sri.AGP., Advocate)**

**Applicant**

Sri Narasimhareddy (5<sup>th</sup> defendant)

**(D5 By Sri. Pradeep.R, Advocate)**

**V/S**

**Opponents**

Smt. Thripurambika

**(By Sri. M. Ravikumar., Advocate)**

**ORDER ON IA NO.XXII FILED U/O VI RULE 17 R/W SECTION  
151 CPC**

The defendant no.5 has filed this IA under Order VI Rule 17 r/w 151 of C.P.C seeking permission to amend the written statement as sought for in the application.

2. In support of the application the defendant no.5 sworn to an affidavit and stated that the plaintiff has filed the above suit against the defendants for the relief of partition and separate possession. During the pendency of the above suit, the defendant no.5 filed the said interim application in which he filed an application for amendment of the written statement by adding the points in the interim application after page 4 para 11 of the written statement. He further stated that the proposed amendment is necessary for explaining the basis of acquisition and nature of the said property. The proposed amendment is not inconsistent with the existing pleadings and it gives clarification as to the existing pleadings and same is essential and no prejudicial will be caused to the plaintiff. The proposed amendment is essential for complete and effectual adjudication of the matter in controversy between the parties. For all the reasons prayed to allow the application.

3. On the other hand the plaintiff has opposed the application by filing the objection. In the objection contended that the application filed by the defendant No.11 to amend the written statement is not maintainable either law nor on facts. It is further averred that the affidavit is not true and not admitted by plaintiff. And denied all averment made by the applicant and further submitted that the present application is only dragon the proceedings and pleased to dismissed the application with exemplary cost.

4. Heard arguments of both sides. Perused the materials on record. The following points arise for my consideration:

1. Whether the proposed amendment is necessary for the purpose of determining the real question in controversy between the parties?
2. Whether IA filed by the defendant no.5 for amendment of written statement deserves to be allowed?
3. What order?

5. My answer to the above points are as under

Point No.1: In the Affirmative  
Point No.2: In the Affirmative  
Point No.3: As per final order for the following:

### **REASONS**

**6. Point No.1 & 2:-** This is a suit for partition and separate possession of the suit schedule property. During the pendency of the above suit the defendant No.5 has filed the IA No.XXII under Order 6 Rule 17 R/w Section 151 of CPC., seeking to amend the written statement filed by the defendant No.5. During the pendency of the above suit, the defendant no.5 filed the said interim application in which he filed an application for amendment of the written statement by adding the points in the interim application after page 4 para 11 of the written statement. The defendant no.5 stated that without changing his earlier contentions, is seeking the proposed amendment to the written statement. The proposed amendment does not raise new grounds but it is only a clarification regarding nature of the suit schedule property. Hence, no prejudice will be caused to the plaintiff if the

proposed amendment is permitted. Keeping in view of the rival contentions of the parties, the proposed amendment is necessarily to decide all the controversies involved in the suit completely and effectually. No doubt there is delay in filing the above application. The inconvenience that may be caused to plaintiff may be compensated by imposing the costs. For all these reasons, it is fit case to exercise the discretion to permit the defendant no.5 to amend the written statement as sought for in the application. Accordingly point no.1 and 2 are answered in the 'Affirmative'.

**7. Point no.3:-** In view of the above reasons and in the result, the following:-

**ORDER**

IA No.XXII filed by the defendant no.5 under Order VI Rule 17 r/w Sec.151 of Code of Civil Procedure is hereby allowed on cost of Rs.500/-.

The defendant no.5 is permitted to amend the written statement as sought for in the IA No.XXII.

For amendment and amended written statement by

**(Dictated to the stenographer, computerized by her, same is corrected and then pronounced by me on this the 07<sup>th</sup> Day of August 2023)**

Prl.Civil Judge and  
JMFC., Kollegala.



**(Vide Separate Order pronounced in open Court)**

**ORDER**

IA No.XXII filed by the defendant no.5 under Order VI Rule 17 r/w Sec.151 of Code of Civil Procedure is hereby allowed on cost of Rs.500/-.

The defendant no.5 is permitted to amend the written statement as sought for in the IA No.XXII.

For amendment and amended written statement by

Prl.Civil Judge and  
JMFC., Kollegala.



