

KADG220009162023



**IN THE COURT OF THE I ADDITIONAL CIVIL JUDGE &
JMFC, CHANNAGIRI.**

Present: Kum.Shama Srivatsa.

B.A ,LL.B, (Hon's), LL.M.

I ADDL. Civil Judge & JMFC, Channagiri.

O.S. No.73/2023

PLAINTIFF : Sri. S.P Siddappa

/Vs/

DEFENDANTS : Sri. H.P Ravindra

PARTIES IN I. A.

APPLICANT : Sri. H.G Ravindra

----- (Defendant)

/Vs/

OPPONENTS : Sri. S.P Siddappa

(plaintiff)

**ORDER ON APPLICATION FILED UNDER ORDER 6
RULE 17 OF CODE OF CIVIL PROCEDURE**

The interim application No.IV is filed by the defendant under order VI Rule 17 R/w Section 151 of code of civil

procedure for seeking permission of the court to carry out the proposed amendment which is as described below.

Proposed amendment

In page No. 4, Para No. 10 at line 3 the word
“South” is to be deleted and the word “East”
is to be added.

2. The defendant sworn to an affidavit in support of application wherein he has stated that, due to oversight while filing the written statement error occurred in mentioning the boundaries in the suit schedule and same mistake is came to know recently. Hence, prays to amend the written statement as prayed above.

3. The plaintiff filed their objection and submitted that, the defendant has filed false affidavit and they are already given memo of undertaking abide by the conditions imposed by the Hon'ble Court in O.S No. 76/2023 to putup the roof on the dilapidated walls in the interest of justice. In spite of that, the defendants herein as filed this application to cause.

Unnecessary interference in the peaceful possession of the plaintiffs herein. Plaintiff further submits that if the application is allowed hardship and agony will be caused to plaintiff and the very nature of the suit will be altered. Hence, prays to dismiss the application with cost.

4. Heard the arguments of the both counsels and perused the materials on record.

5. The following points would arise for this court to consideration.

- i. Whether the application filed by the plaintiff is liable to be allowed ?
 - ii. What order ?
6. My findings on the above points are as for follows:-

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

Point No.ii : **As per the final order
for the following;**

REASONS

7.Point No. i:

The plaintiff has instituted this suit for the relief of permanent injunction against the defendants. Defendants

herein submitted that due to typographical error instead of mentioning the word East they have mentioned the word South in page No. 4 of the written statement while showing the direction of the pathway. The error recently came to notice of the defendants and amendment in their written statement is much necessary to contend their case against plaintiffs. Per contra plaintiff contended that averments made in the affidavit filed by the defendant were filled with false information and not tenable under the law. Moreover, they have given undertaking memo that they will abide by the conditions imposed by the Hon'ble Court in O.S No.76/2023 to putup the roof on the dilapidated walls. Inspite of that the defendants filed this amendment application to cause mental agony and only to drag the proceedings against the plaintiff. Plaintiff further states only to fillup the lacuna the present application is filed if allowed the very nature of the suit will be changed and this will lead to hardship and agony to the plaintiff.

8. On perusal of the proposed amendment by the defendant will not take away the nature of the suit or it effects the territorial jurisdiction of this court and moreover the present is suit is still in the pre trial stage and no prejudice will cost to plaintiff if allowed. The reasons shown by the defendants are convincing to allow this application in order to avoid the multiplicity of the proceedings and also adjudication of the matter in dispute. The contention of plaintiff that very nature of the suit will be changed holds no water with respect to proposed amendment. Having considered the nature of the suit and position of the parties this court accordingly answered the point No.1 in the **Affirmative**.

9. **Point No.2:-** As a result, I proceed to pass the following:

ORDER

Application filed U/Order VI Rule
17 of CPC is hereby allowed.

The defendant is hereby permitted
to amend the written statement as

sought in the application and file
amendment written statement.

For amended written statement .

(Direct Dictated to the Stenographer on computer, corrected by me and pronounced in the
Open Court on this **30th day of January, 2024**)

Sd/-

(Kum. Shama Srivatsa)

**I Addl. Civil Judge & J.M.F.C.,
Channagiri.**