

ORDER ON I.A. No.2 FILED BY DEFENDANT
U/O. 6 RULE 17 OF CPC., DATED: 20.02.2026.

The defendant filed this application seeking permission to amend the written statement as mentioned in the schedule in the interest of justice and equity.

2. In the accompanying affidavit the defendant contended that the plaintiffs have filed suit for partition and separate possession of her share in the suit schedule property. Further he has submitted that the husband of the plaintiff has executed relinquish deed dated: 20.01.1991 by giving up his share pertaining to suit schedule property in favour of the defendant. The said defense has not been taken in his written statement by oversight and the said relinquish deed was recently found in his house. Hence the necessary application is filed to amend the written statement. If this application is allowed no hardship will be caused to the defendants, on the other hand he will be put to great hardship and legal injury which cannot be measured in any other manner. Hence, prays to allow the application.

3. On the other hand the plaintiff has filed objection and contended that the application U/O.6 Rule 17 of C.P.C for amendment and U/O.8 Rule 1-A(3) R/w Sec.151

of C.P.C for production of documents filed by the defendant is not at all maintainable both under law and facts. The defendant has sworn into several false facts in course of his affidavits in support of these I.A's No.2 and 3, each allegations made in the course of said affidavits are all false and frivolous and not sustainable under law. The defendants has filed these applications after the evidence of plaintiff's side and once for posted for judgment they have filed the applications for amendment of his written statement and production of documents on his behalf at this belated stage is not tenable under law. The plaintiffs have humbly submits that the defendant has filed his written statement on 11.06.2025 itself is all ready taken this defense in his written statement in para No.13(b). But, again filed application for amendment the same aspects in his application is highly not sustainable under law. Because, this defendant has manipulating and created the documents after filling written statement without producing any documents at that time. Moreover, the husband of the plaintiff No.1 by name A.Shekarappa has not executed any kind of documents in favour of defendant during his life in respect of suit schedule property. In addition that the deceased A.Shekarappa had not signature to the said document filed by the defendant in the above case. The

said signatures in the said documents forged and created in his favour by this defendant filed after written statement. Moreover, the style of documents as relinquished deed or affidavit produced by the defendant was purchased stamp papers himself in his name is clearly goes to show that the said documents of relinquished deed or consent deed by way of affidavit before the notary at Davangere are manipulating and created the documents in his name to grab the valuable suit schedule property in the above case. Further this defendant is one or the other way drag on the matter and harass the plaintiffs since the date of filing this suit to filing such applications after completion of plaintiffs side evidence at this belated stage is not tenable under law. Moreover, the documents filed by the defendant is not registered one, it is compulsory registered U/Sec.17 of Registration Act. The defendant has pleaded in his written statement in para No.13(a) that imaginarily he was purchased the suit schedule property and one side fallen to the share of him and relinquished the share of deceased A.Shekarappa these are all the pleadings are vague and not sustainable under law without producing proper document and valid documents. Hence, the proposed amendment cannot be inserted by way of amendment is highly not tenable under law. Hence prays to reject the application.

4. Heard arguments.

5. On perusal of material placed on record, the point for consideration is as under:

1. Whether the proposed amendment is necessary to adjudicate the matter between the parties?
2. What order?

6. My answer to the above points is as under;

Point No.1: In the Affirmative

Point No.2: As for final order

REASONS

7. **POINTS NO.1** : The present suit is filed by the plaintiff for the relief of partition and separate possession. The present defendant has filed this application seeking to amend the written statement in page No.6 after para (c) to add prayer (d). In the application he has contained that the plaintiff has executed relinquished deed dated: 20.01.1991 by giving up his share pertaining to suit schedule property in favour of the defendant. The said defense has not been taken in his written statement by oversight the said relinquished deed was recently found in his house. Hence he has filed this application. On the other hand the plaintiff has denied the contents of application and contended that relinquishment deed is created by the defendant and same is not registered. Therefore prays to reject the application.

8. On perusal of the application the defendant proposed to amend in respect of relinquishment deed is concerned. In the written statement he has taken to defense in respect of relinquishment deed but he has not stated the execution of relinquishment deed. Whether the relinquishment deed is genuine or not it will be considered at the time of trial. At this stage court has to considered whether the proposed amendment is necessary to adjudicate the case. Moreover there are number of judgments stated that during considering the application in respect of amendment of written statement the court has to take lenient view. Because the amendment of written statement is not change the nature of the suit. If the defendant taken different version it will cause adverse inference to the defendant and not caused any hardship to the plaintiff. Moreover the plaintiff is liberty to cross-examine to the defendant. On perusal of the application this application is filed on 20.06.2026 and earlier written statement is filed on 27.06.2025 after case is posted for judgment. The attitude of defendant shows that in order to drag on in case he has intentionally filed by this type of application. In order to cut down unnecessary application it is just and necessary to impose cost. Hence, I answer **Point No.1 in the Affirmative.**

9. **POINT NO.2 :** As discussed above, I proceed to pass the following ;

ORDER

The application filed by the defendant U/O. 6 Rule 17 r/w Section 151 of CPC., is hereby allowed with cost of Rs.5,00/-.

For amendment and amended written statement.

Call on 23.07.2026.

Sd/-
Prl. Civil Judge & JMFC.,
Harihar.