

IN THE COURT OF THE I ADDITIONAL SENIOR CIVIL JUDGE &
J.M.F.C., HUBBALLI

Present:

SMT. SARVAMANGALA K.M.,
B.A. LL.B.,
I Additional Senior Civil Judge and JMFC.,
Hubballi.

O.S. No.483/2022

Dated this the 05th day of March, 2026

Plaintiff : Smt. Lakshmauva W/o Venkappa Reddi
and another.

.Vs.

Defendant : Hanumaraddi S/o Venkappa Reddi.

PARTIES TO I.A. NO.15

Applicant/s : Hanumaraddi S/o Venkappa Reddi.

.Vs.

Opponent/s : Smt. Lakshmauva W/o Venkappa Reddi
and another.

- i. Provision under which application is filed : Under Order 6 Rule 17 R/w Sec.151 of CPC.
- ii. Relief sought for : For amendment of written statement.
- iii. The date on which application is filed : 15.12.2025
- iv. Number of the application : 15
- v. The date on which objections are filed by different opponents : 21.01.2026 (by plaintiff)

vi. The date on which : 05.03.2026
orders were passed on
the said application

ORDERS ON IA No.15

This order arises out of interlocutory application No.15 filed by the applicant/defendant No.2 under Order VI Rule 17 R/w Sec.151 of Civil Procedure Code for amendment of written statement.

Description of the proposed amendment is below:

After para No.10, following paras be added:

10(ಅ) ಪ್ರತಿವಾದಿ ನಂ.1 ಈಗ ವಾದಿ ನಂ.2 ಹಿತ್ತಲು ಜಾಗೆಯ ಕುರಿತು ಮೃತ್ಯುಪತ್ರದ ಪ್ರಕಾರ ನನಗೆ ಎಲ್ಲ ಜಾಗೆ ನನಗೆ ಬೇಬೇಕು ಅಂತ ಜಗಳವಾಡಿ ಪ್ರತಿವಾದಿ ನಂ.2 ನೇದವರ ಹೆಂಡತಿಗೆ ಮಾರಣಾಂತಿಕ ಹಲ್ಲೆಮಾಡಿದ್ದು ಇರುತ್ತದೆ. ಈ ಕಾರಣದಿಂದಾಗಿ ಪ್ರತಿವಾದಿ ನಂ.1 ಈಗ ವಾದಿ ನಂ.2 ನೇದವರ ಮೇಲೆ ಕ್ರಿಮಿನಲ್ ಕೇಸು ಆಗಿ ಮಾನ್ಯ 1ನೇ ಅಧಿಕ ಜಿಲ್ಲಾ ಸತ್ರ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಚಾಲ್ತಿಯಲ್ಲಿ ಇರುತ್ತದೆ. ಈ ಕ್ರಿಮಿನಲ್ ಕೇಸನ್ನು ಹಿಂಪಡೆಯಲು ವಾದಿಯು ಪ್ರತಿವಾದಿಯನ್ನು ಒತ್ತಾಯಿಸಿದ್ದು ಇರುತ್ತದೆ. ಸದರಿ ಕೇಸನ್ನು ಹಿಂಪಡೆಯಲು ಪ್ರತಿವಾದಿ ನಂ.2 ನೇದವರು ನಿರಾಕರಿಸಿದಾಗ ವಾದಿ ಹಾಗೂ ಪ್ರತಿವಾದಿ ನಂ.1 ಈಗ ವಾದಿ ನಂ.2 ನೇದವರು ಕೂಡಿಕೊಂಡು ಒಂದಿಲ್ಲ ಒಂದು ನೆಪ ಮಾಡಿ ಪ್ರತಿವಾದಿ ನಂ.2 ನೇದವರಿಗೆ ತೊಂದರೆ ಕೊಡುತ್ತಿದ್ದಾರೆ. ವಾದಿ ಗಂಡ ಹಾಗೂ ಪ್ರತಿವಾದಿ ನಂ.1 ಈಗ ವಾದಿ ನಂ.2 ಮತ್ತು ಪ್ರತಿವಾದಿ ನಂ.2 ನೇದವರ ತಂದೆ ವೆಂಕಪ್ಪ ತಂದಿ ಈರಪ್ಪ ಇವರು ತಮ್ಮ ಜೀವಿತ ಕಾಲದಲ್ಲಿ ಮಾಡಿಟ್ಟ ಮೃತ್ಯುಪತ್ರದ ವಿಷಯ ಗೊತ್ತಿದ್ದರೂ ಸಹ ಸದರಿ ಕ್ರಿಮಿನಲ್ ಕೇಸು ಆದ ನಂತರ ವಾದಿ ಹಾಗೂ ಪ್ರತಿವಾದಿ ನಂ.1 ಈಗ ವಾದಿ ನಂ.2 ನೇದವರು ಕೂಡಿಕೊಂಡು ಬೋಟಿ ಹಾಗೂ ಬನಾವಟಿಯಿಂದ ಕೇವಲ ಪ್ರತಿವಾದಿ ನಂ.2 ನೇದವರಿಗೆ ತೊಂದರೆ ಕೊಡುತ್ತಿರುವುದರಿಂದ ಈ ದಾವೆಯನ್ನು ಮಾಡಿದ್ದು ಇರುತ್ತದೆ.

10(ಬ) ವಾದಿ ಗಂಡ ಹಾಗೂ ಪ್ರತಿವಾದಿ ನಂ.1 ಈಗ ವಾದಿ ನಂ.2 ಮತ್ತು ಪ್ರತಿವಾದಿ ನಂ.2 ನೇದವರ ತಂದೆ ವೆಂಕಪ್ಪ ತಂದಿ ಈರಪ್ಪ ರೆಡ್ಡಿ ಇವರು ತಮ್ಮ ಜೀವಿತ ಕಾಲದಲ್ಲಿ ಮಾಡಿಟ್ಟ ಮೃತ್ಯುಪತ್ರದ ಪ್ರಕಾರ ದಾವಾ ಆಸ್ತಿಗಳನ್ನು ಪಾಲು ಮಾಡಿ ಹಂಚಿಕೊಂಡಿದ್ದು ಇರುತ್ತದೆ.

2. *The brief facts of the affidavit annexed to application is that, he has sought amendment of the written statement filed by him, as upon filing the written statement he realized that due to inadvertence certain material facts were omitted, and therefore the amendment sought in the present application is necessary for the proper and effective adjudication of the matter. If the application is not allowed in permitting him to amend the written statement, he will be put to great hardship and injustice. On the contrary no loss or hardship will be caused to the plaintiff. Hence, prayed to allow the application.*

3. *The plaintiff has resisted the application by contending that the application is false, frivolous, vexatious and same is neither tenable in law nor on the facts of the case. The defendant has not made out any grounds to bring this application within scope and ambit proviso to Order VI Rule 17 of CPC. The defendant has filed this false and vexatious application knowing it to be false one. Therefore, the application is devoid of merits and liable to be rejected.*

4. *Heard arguments. Both counsels relied decisions.*

5. *The following points are for my consideration.*

- *Point No.1: Whether the defendant No.2 has made out sufficient grounds to allow the application?*
- *Point No.2: What order?*

6. *My findings to the above points are as under.*

- *Point No.1: In the Affirmative.*
- *Point No.2: As per final order, for the following;*

REASONS

7. **Point No.1:** *This is the suit of the plaintiff for the relief of partition and separate possession in the suit schedule properties against the defendants. When the matter is set down for further cross of P.W.1, he came up with the present application seeking proposed amendment in his written statement. Admittedly, the trial of the parties have commenced. The counsel for defendant relied upon the decision of Hon'ble Supreme Court of India reported in AIR 2006 Supreme Court 2832, wherein this decision the Hon'ble Supreme Court observed that commencement of trial as used in proviso to Order 6 Rule 17 in the CPC must be understood in the limited sense as meaning the final hearing of the suit, examination of witnesses filing of documents and addressing of arguments and further observed that in view of proviso to Order 6 Rule 17 of CPC which confers wide power and unfettered discretion to the Court to allow an amendment of the written statement at any stage of the proceedings.*

On the otherhand, the counsel for the plaintiff relied upon the decision of Hon'ble High Court of Karnataka, Bangalore reported in 2012 (6) KarLJ 112, wherein it is held that no application for amendment of pleadings shall be allowed after commencement of trial. The above said decision is no applicable to the case on hand as the defendant No.2 relied upon the Hon'ble Supreme Court decision is prevailed on the above said decision.

8. *On perusal of the records, it is evident that the trial in the present suit as already commenced and evidence has been recorded. As per the proviso to Order 6 Rule 17 of CPC, once the trial has commenced, amendment shall not be allowed unless the Court comes to the conclusion that inspite of due diligence the party could not have raised the matter before commencement of trial.*

9. *In the present case, except making a bald assertion, the defendant has not placed any record to show that due diligence. However, even after commencement of trial amendment can be allowed if it is necessary for determining the real controversy and does not change the nature of the case, particularly when it only clarifies the pleading. In the present case on hand, the proposed amendment sought by the defendant No.2 pertains only to the pleadings and appears to be explanatory in nature. The amendment does not introduce any new cause of action nor does it change the fundamental nature of the defence taken by the defendant. The amendment appears to be necessary for the purpose of effectively adjudicating the real controversy between the parties.*

10. *Further, no serious prejudice would be caused to the plaintiff, as the plaintiff would have sufficient opportunity to meet the amended pleadings during the course of trial.*

11. *It is well settled that procedural law is intended to advance the cause of justice and not to defeat it. Therefore, if the amendment is necessary for determining the real question in controversy between the parties the same can be allowed*

even at a later stage subject to appropriate terms. Considering the nature of the amendment sought and in order to avoid multiplicity of proceedings this Court is of the opinion that the application deserves to be allowed on cost. Accordingly, I answer **point No.1 in the affirmative.**

12. **Point No.2:** I proceed to pass the following;

ORDER

I.A. No.15 filed by the defendant No.2 under Order VI Rule 17 R/w Sec.151 of Civil Procedure Code is hereby allowed on cost of Rs. 500/-.

Thereby, the defendant No.2 is permitted to carryout the amendment of his written statement as prayed in the application.

For amendment and amended written statement by:18.03.2026.

*(Dictated to the Stenographer directly on computer, script corrected and then pronounced by me in the Open Court on this the **05th day of March, 2026**)*

sd/-

(Smt. Sarvamangala K.M.)
I Addl. Senior Civil Judge and JMFC.,
Hubballi.