

KAHS200001442018



**IN THE COURT OF THE CIVIL JUDGE AND JMFC, AT**  
**ALUR**

**Dated this 1<sup>st</sup> day of July 2025**

Present: Smt.Sneha M., B.A. L.L.B.,  
Civil Judge and JMFC,  
Alur.

**O.S.No.60/2018**

Plaintiff:s **Sri. Abdul khyum**  
(By **Sri.M.M.S.**,  
Advocate)

-V/s-

Defendant:s **Sri. Munir Pasha and another**  
(By **Sri.K.N.**,  
Advocate)

**RANK OF THE PARTIES ON I.A.7**

Applicant/Plaintiff : Sri.Abdul Khyum

-V/s-

Opponent/Defendant : Sri.Munir Pasha and another

**ORDERS ON I.A.No.7**

I.A.No.7 is filed by the Learned Counsel for the Plaintiff under Order 6 Rule 17 of CPC seeking permission of Court to amend the plaint.

**2.** The plaintiff sworn to an affidavit in support of the application, wherein it is stated that he had filed suit for permanent injunction but, the defendants during the pendency of the suit by violating the orders of this Court have encroached the suit schedule property towards eastern side and constructed building so, the said amendment is very much necessary. If the application is not allowed the plaintiff will be put to greater hardship. Hence it is prayed to allowed the application.

**3.** Counsel for defendant has filed objections by denying the contents of the application and contended that the facts which has taken place before filing of suit can be included through amendment and the facts which has taken place after filing of suit cannot be included through amendment. If this application is allowed it will change the nature of suit so, the said application is not maintainable. Hence it is prayed to dismiss the application.

**4.** Heard the arguments.

5. Now the following points arise for consideration of this court are.

**Point No.1:** Whether the plaintiff has made out grounds for allowing I.A.No.7 and thereby permitting him to carry out the proposed amendment as sought for?

**Point No.2:** What Order?

6. The findings of this court on the above points are as under:

**Point No.1:** In the Affirmative

**Point No.2:** As per the final order for the following;

### **R E A S O N S**

**7. Point No.1 :** The present suit was filed by the plaintiff for the relief of permanent injunction and this court was passed orders on I.A.No.7 under Order 6 Rule 17 of CPC., temporarily restraining the defendants from putting up construction towards eastern side of property. But, now the plaintiff himself is contending that defendants by encroaching the suit schedule property has constructed building towards eastern side. So, the said amendment is necessary for determining the real question in controversy between the parties.

In Pirgonda Hongonda Patil vs Shidgonda Patil, reported in AIR 1957 SC 363, the Hon'ble Supreme Court of India has held that,

**“The Power under Rule 17 is entirely discretionary to be used judicially on consideration of the circumstances of each case. The rule allows, "at any stage", all amendments which satisfy two conditions (a) of not working injustice to the other side and (b) of being necessary for the purpose of determining the real question in controversy between the parties.”**

In Jai Jai Manohar Lal vs National Building Material Supply, Gurgaon, reported in AIR 1969 SC 1267, the Hon'ble Supreme Court of India has held that,

**“The rules of procedure are intended to be handmaid to the administration of justice. A party cannot be refused relief merely because of some mistake, negligence, inadvertence of infraction of the rules of procedure. The Court always allows amendment unless it is satisfied that there was mala fides or blunder which had caused injury to the other side and which could not be compensated by costs. However negligence or careless may have been his omission and however late the proposed amendment may have been sought, it will be**

**allowed if no injustice is caused to the other side.”**

**8.** On keeping the above principles laid down by the Hon'ble Supreme Court of India, it can be conclude as, if application for amendment of pleadings is filed at a belated stage, the said applications cannot be allowed by the Court. But if the amendment sought by the party is necessary for the proper adjudication of the suit, then the said amendment can be allowed. So, on perusal of the pleading in the present suit, amendment sought is very much required to determine the real question in controversy between the parties. If the above application is allowed, no hardship will be caused to other side. Moreover, every opportunity should be given to the parties to plead their assertions before the Court. To avoid the multiplicity of suits, application needs to be allowed. Hence, in the interest of justice, the above amendment has to be allowed. Accordingly, this court answer **point No.1** in the **affirmative**.

**9. Point No.2:** In view of the above reasoning I proceed to pass the following:

**ORDER**

*I.A. No.7 filed by the learned counsel for the plaintiff under Order 6 Rule 17 of C.P.C is here by allowed on cost of Rs.300/-.*

*The learned counsel for the plaintiff is permitted to carry out the amendment as sought for and furnish the amended plaint.*

*(Dictated to the Stenographer directly to the computer, then corrected and pronounced by me in the open Court on this the 1<sup>st</sup> day of July 2025)*

**(Sneha M.)**  
Civil Judge  
and J.M.F.C., Alur.