

IN THE COURT OF THE CIVIL JUDGE & J.M.F.C.,
HANGAL

PRESENT: Smt.Aishwarya Chidanand Pattanshetti, B.COM, LL.M.,
Civil Judge & J.M.F.C., Hangal.

O.S.No.6 of 2020

DATED THIS THE 7th DAY OF JANUARY 2026

Plaintiff : Hanumanthappa S/o Shivappa Malagunda
Age: 64 years, Occ: Retired servant,
R/o: Hangal, Tq: Hangal, Dist: Haveri.

(By Sri.B.S.Akkivalli – Adv.)

V/s.

Defendants: 1. Radhabai W/o Prabhakar Pujar
Age: 70 years, Occ: House hold work
R/o: Gudikeri street, Near Tarakeshawar
Temple, Hangal, Tq: Hangal, Dist: Haveri.
and 4 others.

(By Sri.R.V.Wadeyar - Adv.)

PARTIES TO I.A.No.VIII

Applicant/

Defendant: 4. Laxman S/o Prabhakar Pujar

- V/s -

Opponent/

Plaintiff: Hanumanthappa S/o Shivappa Malagunda

PARTIES TO I.A.No.IX

**Applicants/
Counter claim**

plaintiff: 4. Laxman S/o Prabhakar Pujar

- V/s -

Opponent/

Defendant: Hanumanthappa S/o Shivappa Malagunda

I	Provision under which the application is filed	I.A.No.VIII-U/o.VI Rule 17 of C.P.C., I.A.No.IX-U/o.VI Rule 17 of C.P.C.
II	Relief sought for	For amendment of written statement & counter claim plaint
III	Date on which the application is filed	I.A.No.VIII - 10-12-2024 I.A.No.IX- 10-12-2024
IV	Number of application	I.A.No.VIII and IX
V	The date of which objections filed by the different opponents	I.A.No.VIII – 16-01-2025 I.A.No.IX – 16-01-2025
VI	Date on which the order was passed on said application	07-01-2026

(Smt.Aishwarya Chidanand Pattanshetti)
Civil Judge & JMFC.,
Hangal.

COMMON ORDERS ON I.A.No.VIII AND IX

The present applications are filed by the defendant No.4 and counter claim plaintiff No.4 when the matter was posted for further cross examination of PW-1. The applicant/defendant No.4 has filed I.A.No.VIII U/o.VI Rule 17 of C.P.C., seeking amendment of written statement in terms of the application in the interest of justice and equity. Further, the applicant/counter claim plaintiff(defendant No.4) has filed I.A.No.IX U/o VI Rule 17 of CPC, seeking amendment of counter claim plaint in terms of the application in the interest of justice and equity.

2. In the affidavit annexed to the application, the applicant/defendant No.4 has stated that the present suit is filed by the plaintiff for the relief of specific performance. The properties in TMC.No.366/8B, 3366/8B2 and 3366/8B3 are originally from ownership of Tarakeshawara Temple and all properties are cultivated by the ancestors. The R.Sy.No.296 and 297 were divided into several phot hissas from their ancestors and as such, the suit schedule property is fallen under whether in R.Sy.No.296 or 297 and there are no KGP entered to that effect. As such, there it is necessary to

amend the 3rd line of 9th para of written statement as “ನೇದ್ವವುಗಲೆ” instead of “ನೇದ್ವರ”.

(b) On the other hand, the counter claim plaintiff No.4 has filed I.A.No.IX U/o VI Rule 17 of CPC amend the counter claim averments as sought in the application. As stated earlier averments of the application reiterated by the counter claim plaintiff No.4 to this application also. Therefore, the counter claim plaintiff No.4 prays to amend the counter claim plaint as sought in the application. On these grounds, it is prayed to allow the applications.

3. These applications are resisted by counsel for the plaintiff/counter claim defendant by filing objections inter alia among various grounds. It is contended in the objections that the applications are not tenable either in law and facts and the plaintiff/counter claim defendant contended that, now the suit is at the stage of cross examination of plaintiff and filed these applications. After 4 years from the date of filing of written statement the defendants are intending to amend the written statement and also counter claim averments. Further, applicant/defendant No.4 intending to drag on the proceedings of the case and there is negligence on the part of defendants/counter claim plaintiffs. Further there is no

proper explanation for amendment of the written statement and also counter claim plaintiff in the applications. On these grounds, it is prayed to dismiss the application with costs.

4. Heard the arguments of both the sides and perused entire materials available on record at this stage.

5. The points that would arise for consideration of this court are as follows:-

POINTS

1. Whether the applicant/defendant No.4/counter claim plaintiff No.4 has made out grounds to allow I.A.No.VIII and IX at this stage?

2. What order?

6. The findings of this court on aforesaid points are as follows:-

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

REASONS

7. **Point No.1**:- Apparently, the plaintiff has filed this suit against the defendants for specific performance. And when the matter was posted for the cross examination of PW-1, the defendant No.4/counter claim plaintiff No.4 has filed the present applications and opposed by the plaintiff/counter claim defendant.

8. It is important thing to note that, Order 6 Rule 17 of amended CPC clearly states that, no application for amendment shall be allowed after the trial has been commenced, unless the Court comes to the conclusion that, inspite of due diligence, the party could not have raised the matter before the commencement of trial. This is a suit for the relief of Specific performance, issues have been framed and when the matter was posted for further cross examination of PW.1, the present applications are filed. The burden is on the plaintiff to prove the plaint averments and the counter claim plaintiffs have to prove their contentions also. After going through the reasons assigned by the applicant/defendant No.4/counter claim plaintiff No.4, I'm of the view that, the applicant has shown sufficient grounds to allow the applications. If the application is allowed, no harm or injustice will be caused to the plaintiff/ counter claim defendants in any way, nor it will change the nature of the suit or the cause of action. Hence, this point answered in the Affirmative.

9. **Point No: 2** :- With these observations, I proceed to pass the following:-

ORDER

***I.A.No.VIII and I.A.No.IX filed U/o.VI
Rule 17 of C.P.C, by the defendant No.4/***

applicant are hereby allowed on cost of Rs.300/-.

Consequently, the counsel for the defendants is hereby directed to carryout the amendment in terms of I.A.No.VIII and I.A.No.IX.

(Dictated to Stenographer, directly typed by him on computer, once revised, corrected and later initialed by me and then pronounced by me in the open court on this the 7th day of January - 2026)

**(Smt.Aishwarya Chidanand Pattanshetti)
Civil Judge & JMFC.,
Hangal.**