

KAKB410001142019



THE COURT OF THE SENIOR CIVIL JUDGE

& J.M.F.C., AT : CHINCHOLI

Present : Smt.Jyoti.Shantappa.Kale

L.L.M.,

Senior Civil Judge & JMFC, Chincholi.

DATED : THIS THE 06th DAY OF APRIL2024

M.C 19/2019

Petitioner/s

Shantkumar S/o Fakirappa

V/s

Respondent/s:

Mahadevi W/o Shantakumar

-: I.A.No.II:-

Applicant/s:

Mahadevi W/o Shantakumar

V/s

Opponent/s:

Shantkumar S/o Fakirappa

Order on Interim application No.II filed under Order 6 Rule 17 r/w
Section 151 of the CPC by the respondent

- 1.** Respondent has filed this application under Order VI rule 17 of Code of Civil Procedure, 1908 with a prayer to permit the respondent to amend the objections statement by including the paragraphs shown in the proposed amendment and allow the application in the interest of justice and equity.
- 2.** This application is supported by the affidavit of the respondent , wherein she has sworn to the effect that, petitioner is having illicit relationship with one Patrisiya Disoja and Abaparata and Shreaya, Shilpa and Nilamma. It is stated that the petitioner had bad habits and the respondent in her objection has not disclosed the family secretes but the character of the petitioner is not changed . Thus the same needs to be countered and thus the present application is filed to bring in the pleading regarding the facts of case. It is further stated that the proposed amendment sought for will not change the nature of the suit and cause of action. It is necessary to permit her to amend the objection by including the paragraphs as shown in the application. If the application is not allowed she will be put to irreparable loss and injury. Thus prayed to allow the application.
- 3.** The learned counsel for the petitioner filed objection to the said application contending that application is not maintainable. In the objection the respondent has already stated the facts as

shown in the proposed amendment There are no reasons shown in the affidavit for amending the objection. On these grounds the petitioner prayed to reject the application.

4. Heard learned counsel for the petitioner as well as learned counsel for respondent. Perused the material placed on record.
5. Upon hearing arguments and on perusal of material placed on record, the following points arise for consideration:
 1. Whether the respondent has made out sufficient grounds for amendment of pleadings as sought in the application?
 2. What order?
6. My answers to the above points are as under:
Point No.1: In Affirmative.
Point No.2: As per the final order, for the following:

R E A S O N S

7. Point No.1: The respondent has filed application seeking permission to amend the objection as per the proposed amendment. In the affidavit the petitioner is having illicit relationship with one Patrisiya Disoja and Abaparata and Shreaya, Shilpa and Nilamma. It is stated that the petitioner had bad habits and the respondent in her objection has not disclosed the family secretes but the character of the petitioner is not changed.

8. The petitioner has filed petition seeking dissolution of marriage with the respondent. In the objection filed by the respondent the respondent has already stated that petitioner is having illicit relationship but the names are not mentioned in the objections. By virtue of proposed amendment, the respondent intends to plead certain facts to the objections.

9. *It is well settled law that ground of application for amendment be subject to certain conditions namely:*

- i) When the nature of it change by permitting amendment;*
- ii) When amendment would result in introducing new cause of action and intending to prejudice other party;*
- iii) When allowing amendment application, defeats law of limitation.*

10. Now we have to consider whether the present application for amendment of the plaint meets these requirements.

11. On perusal of the entire pleading , contents of the affidavit and the proposed amendment it makes clear that by virtue of the proposed amendment, respondent is intending to plead certain facts and the same are necessary for effectual adjudication of rights of the parties. Thus I am of the considered opinion that, by virtue of the proposed amendment, the nature of the suit or cause of action will not be changed. That apart, still we are in preliminary stage and the trail is not yet commenced. Under such circumstances, no prejudice or

hardship will be caused to the other side. With these observations, I answer the Point No.1 in the Affirmative.

12. POINT .2: For the foregoing reasons, I proceed to pass the following:

ORDER

Interim application No.II filed by the respondent U/O VI Rule 17 of CPC is hereby allowed.

Respondent is permitted to amend her pleadings as sought in the application as per the proposed amendment .

Respondent is directed to carry out amendment in the written statement and to furnish amended written statement.

Call on 25-04-2024.

(Dictated to Typist, typed by her corrected by me, signed and pronounced by me in the open court on **06th day of April 2024.**)

(Jyothi Shantappa Kale)
**Senior Civil Judge & JMFC.,
Chincholi.**

(Order pronounced in open court vide its separate Order)

ORDER

Interim application No.II filed by the respondent U/O VI Rule 17 of CPC is hereby allowed.

Respondent is permitted to amend her pleadings as sought in the application as per the proposed amendment .

Respondent is directed to carry out amendment in the written statement and to furnish amended written statement.

Call on 25-04-2024.

**Senior Civil Judge & JMFC,
Chincholi.**

