

KAKB410001292020



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 18th DAY OF DECEMBER 2024

ORIGINAL SUIT No.23/2020

I.	Provision under which the application is filed	U/o VI Rule 17 of CPC
II.	Relief sought for	For amendment of written statement
III.	The date on which the application is filed	20/09/2024
IV.	Number of the application	I.A No.9
V.	The date on which the objections are filed by different opponents	09/12/2024
VI.	The date on which the orders were passed on the said application	18/12/2024

Plaintiff/s

Raghavendra

V/s

Defendant/s:

Lalitamma And others

-: I.A.No.9:-

Applicant/s:

Lalitamma And others

V/s

Opponent/s:

Raghavendra

Order on Interim application no.9 filed under Order 6 Rule 17 R/w Section 151 of the CPC by the defendant No.1

- 1.** Defendant No.1 has filed this application under Order VI Rule 17 of Code of Civil Procedure, 1908 with a prayer to permit the defendant No.1 to amend the original written 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 memo of facts wherein he has stated to the effect that, that defendant No.1 has filed written statement and at the time of filing written statement

documents were not available and therefore defendant No.1 has not pleaded certain facts in the written statement. Now he has collected the documents and wants to plead as per the proposed amendment. 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 defendant No.1 to amend the written statement by including the paragraphs as shown in the application. If the application is not allowed he will be put to irreparable loss and injury. Thus prayed to allow the application.

- 3.** The learned counsel for the plaintiff filed objection to the said application contending that application is not maintainable and the proposed amendment is sought to prolong the matter. If the application is allowed the plaintiff will be put irreparable loss. On these grounds the plaintiff prayed to reject the application.
- 4.** Heard learned counsel for the Plaintiff and Counsel for Defendant. 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 defendant No.1 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 plaintiff has filed this suit for Declaration of ownership. The present application is filed by the defendant No.1 seeking permission to amend the written statement as per the proposed amendment. In the application the defendant No.1 has stated that at the time of filing written statement documents were not available and therefore defendant No.1 has not pleaded certain facts in the written statement. Now he has collected the documents and wants to plead as per the proposed amendment.

8. On perusal of the proposed amendment, it shows that, the defendant No.1 intends to amend the amend the written statement in respect of payment of court fee.

9. On perusal of the plaint averments it shows that, the defendant No.1 now by virtue of proposed amendment intends to plead about the court fee.

10. *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.*
11. On perusal of the entire pleading , contents of the application and the proposed amendment it makes clear that by virtue of the proposed amendment, defendant No.1 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. 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 No.:2-** For the foregoing reasons, I proceed to pass the following:

ORDER

Interim application No. 9 filed by the defendant No.1 U/o VI Rule 17 of CPC is hereby allowed on cost of Rs. 300/-.

Defendant No.1 is permitted to amend her written statement as sought in the application as per the proposed amendment.

Defendant No.1 is directed to carry out amendment in the written statement and to furnish amended written statement.

(Dictated to Typist typed by her corrected by me, signed and pronounced by me in the open court on 18th **day of December 2024**)

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