



IN THE COURT OF THE CIVIL JUDGE & J.M.F.C., AT: SEDAM

:PRESENT:

**Sri. Balu
B.A., LL.B.
Civil Judge & JMFC,
Sedam.**

Dated, this the 18th day of September-2025

O.S.No:76/2022

Plaintiff : Hayat Begum W/o Sardarmiya @ Sardarpasha,
Age: 42 years, Occ: Household,
R/o: Jawaharnagar Sedam
now residing at Sulepeth,
Tq: Chincholi, Dist: Kalaburagi.

(By Sri N.R., Adv.)

-Vs-

Defendant:

1. Sardarmiya @ Sardarpasha S/o Abdul Sattar,
Age: 51 years, Occ: Agriculture,
R/o: Jawaharnagar,
Tq: Sedam, Dist: Kalaburagi.
2. Raziabegum W/o Sardarmiya @ Sardarpasha,
Age: 38 years, Occ: Agriculture,
R/o Jawaharnagar,
Tq: Sedam, Dist: Kalaburagi.
3. Alimabee W/o Nazirsab,
Age: 50 Years, Occ: Agriculture,
R/o Jawaharnagar,
Tq: Sedam, Dist: Kalaburagi.

(By Sri.E.S.K., Adv.,)



ORDERS ON I.A. FILED U/o 6 RULE 17 R/w 151 OF CPC

The defendant No.1 has filed present application U/o VI Rule 17 R/w 151 of CPC, praying therein to amend the written statement as per memo of proposed amendment in the interest of justice and equity.

2. The defendant No.1 has sworn to an affidavit in support of the present application wherein, he contended that, the plaintiff has filed suit for maintenance, perpetual injunction, declaration creating charge and recording in ROR against the deponent and other defendants. Further he contended that, the plaintiff has filed the certified copy of order of Crl. Misc. 14/1998 passed by the JMFC at Chincholli at the time of final argument, same was marked as exhibits by reopen the plaintiff side evidence and the court has pleased to posted for cross of PW.1. That, the defendant No.1 recently traced out Khulanama executed by the Hayat Begum on dated:30.08.1995 which was misplaced in the house and at the time of execution of Khulanama she received Gold, Mehal & Jehaz articles etc., and she accepted that, she has Mehar & Jehaz articles etc., and she accepted that, she has not claim any maintenance against the deponent in future, therefore it is very necessary to amendment written statement by adding proposed amendment as a Para No.2(a) in written statement. That the amendment of written statement is very necessary to defendant No.1 to cross examine the PW.1. Hence prayed to allow the application.

3. On the contrary, the learned counsel for the plaintiff has filed objection to the said I.A and contended that, the defendant NO.1 has



denied that the plaintiff is wife in the written statement and in the chief examination and in the cross examination. Further he stated that, after the plaintiff filed Crl. Misc. case order granting maintenance copy in the Hon'ble court, the defendant has come with a new plea of Khulanama on 30.08.1995, before the witness which is against the plea already taken. The defendant can not be permitted to take different defence after the both side evidence is closed and case posted for argument. Amend to the pleadings after commencement of evidence is now not permissible unless the party makes ground. No ground is made out why the belated amendment is to be allowed. Therefore the application filed by the defendant No.2, is not maintainable. Hence, prayed to reject the application.

4. Heard arguments on both sides. The counsel for appearing for plaintiff argued that the defendant No.1 has filed the present application only in order to drag the proceeding and there is no ground to allow the present application. Further the counsel for defendant No.1 argued that the suit is for maintenance, therefore the present amendment is necessary to decide the real question in dispute.

5. The points that arise for my consideration are:-

1. Whether the defendant No.1 has made out grounds to amend the written statement?
2. What order?

6. My answer to the above points are:-

Point No.1: In the Negative.



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

REASONS

7.**Point No.1:** The learned counsel for the defendant No.1 has contended that, the plaintiff has filed suit for maintenance, perpetual injunction, declaration creating charge and recording in ROR against the deponent and other defendants. Further he contended that, the plaintiff has filed the certified copy of order of Crl. Misc. 14/1998 passed by the JMFC at Chincholli at the time of final argument, same was marked as exhibits by reopen the plaintiff side evidence and the court has pleased to posted for cross of PW.1. That, the defendant No.1 recently traced out Khulanama executed by the Hayat Begum on dated:30.08.1995 which was misplaced in the house and at the time of execution of Khulanama she received Gold, Mehal & Jehaz articles etc., and she accepted that, she has Mehar & Jehaz articles etc., and she accepted that, she has not claim any maintenance against the deponent in future, therefore it is very necessary to amendment written statement by adding proposed amendment as a Para No.2(a) in written statement. That the amendment of written statement is very necessary to defendant No.1 to cross examine the PW.1.

8. Per contra the learned counsel for the plaintiff contended that, the defendant can not be permitted to take different defence after the both side evidence is closed and case posted for arguments. The defendant has not made out any grounds to allow the application.



9. Perused the material available on record, and after perusal it reveals that the plaintiff has filed the suit present suit for the relief of maintenance, perpetual injunction and declaration and now the matter is posted for argument after closing both side evidence. It is the contention of the defendant No.1 that, he recently stressed out the Kulanama executed by the plaintiff on dated 30.08.1995 which was misplaced. On perusal of the entire record the defendant No.1 has not produced the alleged kulanama before the court therefore in the absence of material evidence the defendants can not be permitted to amend the written statement which is against their own pleadings. After perusal of the order sheet it could be seen that the defendants have filed the written statement long back on 25-11-2022, but the defendant has not filed any such application at the earlier stage of proceedings. Therefore from this it is crystal clear that the defendant has filed the present application only in order to drag the proceedings and cause unnecessary delay in disposal of the case. Having regard to the totality of the facts and circumstances of the case, this court is of considered opinion that the application for the amendment of written statement is not only belated stage, but also not bonafide, and if same is allowed it would change the nature and character of the suit and would lead to a travesty of justice. It is pertinent to note here that, already this case was posted argument. Further, if the permission for amendment of the written statement granted at this stage, then it would be cause serious prejudice to the plaintiff. In the present case, except aforementioned reasons the applicant has not assigned any satisfactory specific reasons.



10. Therefore the events shows that the defendants is not due diligent in prosecution the suit properly and filing the application at earlier point of time and there is delay. The parties should be diligent in prosecuting the suit. It is already opined that the defendant is not due diligent in prosecution the suit properly and filing the application at earlier point of time. Further it is settled principle of law that the amendment to fulfill lacuna should not be allowed. Therefore I am of the opinion the applicant has not shown any reasons to allow the application and sufficient reasons to show that he was due diligence in prosecution of the suit at earlier point of time. Hence it is not maintainable and deserves to be rejected. Hence point No.1 is answered in the **Negative**.

11. **Point No.2;** For the reasons discussed herein before I proceed to pass the following:

ORDER

**Interim application filed U/o VI
Rule 17 R/w 151 of C.P.C filed by the
applicant/defendant No.1 is hereby
rejected.**

No order as to the cost.

For argument call on 19.09.2025.

(Dictated to the stenographer directly on computer, typed by him, corrected and then pronounced by me in the open court on this the 18th day of September 2025).

Sd/-
(Balu)
Civil Judge & JMFC
Sedam