

**IN THE COURT OF THE CIVIL JUDGE & JMFC., KUSHALNAGAR  
: PRESENT :**

**SMT. CHAITHRA L, BBM. LLB.,  
Civil Judge & J.M.F.C.,  
KUSHALNAGAR.**

**DATED THIS THE 3<sup>rd</sup> DAY OF December, 2025**

**O.S.49/2022**

**PLAINTIFF:- Chinnamma**

**(By Sri.HCMK - Adv.,)**

**-V/s-**

**DEFENDANTS:- Murthy and others**

**(D-1 Sri SNH, D-2 & D-4- Sri JJN, D-3 In  
person, D5 to D-7 Sri KSV-Adv )**

**I.A. No.VII**

**Applicant : Chennaraju and others**

**-V/s-**

**Opponents : Chinnamma**

***ORDERS ON I.A.No.VII***

The Defendant No.5 to 7 has filed this application under Order 6 Rule 17 read with section 151 of CPC , to amend the plaint.

**PROPOSED AMENDMENT**

**Add the following at the end of first sentence after plaintiff appearing in paragraph 4 of the written statement.**

**“ are all false and concocted and the same are denied and the plaintiff is put to strict proof of the same. That it is denied that the plaintiff and the other defendants, other than the defendants 5 to 7 namely Chennaraju, Raju and Vasudeva are entitled to any share in the suit schedule property as stated in plaint.**

2. In the annexed affidavit, the defendant No.7 and he further state that the plaintiff has filed the case against him along with other defendants for partition of the suit schedule property among other relief and while drafting the written statement due to over sight and inadvertence certain concluding words in the first sentence as stated in the application as defense has not taken which is going to the root of the case and involves sustainability/maintainability of the suit and the concluding words of the sentence and other defenses has not taken due to typical error and oversight and while drafting written statement the proposed defense has not taken. He further stated that mistake went unnoticed while signing the written statement also. He state the amendment sought is just and necessary for the just disposal of this case and the proposed amendment will not change the nature and cause of the suit and great prejudice and injustice would be caused to him if the proposed amendment is not allowed and no prejudice will caused to the other side. Hence, this application.

3. On the other hand, the plaintiff has filed objection stated that the application filed by the defendants is neither tenable in law nor in fact. The defendants in their written statement and the proposed amendment have denied the relationship between the plaintiffs and the respondents and have not produced any material before this Court to prove the same. Instead, the defendants have filed this application during the trial stage of the suit. After the plaintiffs were examined and cross-examined, the defendants have now come forward with an

application seeking amendment of the written statement with a view to take undue advantage.

4. Heard both side. Perused the materials on record.

5. On the basis of said pleadings, the following points arise for consideration ;

**1. Whether Defendant No.5 to 7 has made out any grounds to allow this application under Order 6 rule 17 r/w section 151 of C.P.C. ?**

**2. What order?**

6. Finding on the above points are as follows;

**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 Defendant No. 7 in his affidavit stated that while while drafting written statement he could not include the concluding lines at para 4 2<sup>nd</sup> line as below

**PROPOSED AMENDMENT**

**Add the following at the end of first sentence after plaintiff appearing in paragraph 4 of the written statement.**

**“ are all false and concocted and the same are denied and the plaintiff is put to strict proof of the same. That it is denied that the plaintiff and the other defendants, other than the defendants 5 to 7 namely Chennaraju, Raju and Vasudeva are entitled to any share in the suit schedule property as stated in plaint.**

The said mistake is inadvertently not included in the written statement.

8. As per under Order 6 Rule 17 of C.P.C.,

**“the Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties. Provided that no application for amendment shall be allowed after the trial has commenced, unless the court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.”**

9. In the present case the, already trial is commenced and case was posted for further cross of D.W.1. As per the above principle of Law at any stage of the proceeding allow either party to alter amend the pleadings before commencement of the trial no application for amendment shall be allowed after the trial has commenced unless the court come to the conclusion that in spite of due diligence, the party could not have raised the same.

10. This court has perused the proposed amendment in detail. In this case, the case was posted for further cross of D.W.1. As per the above principle of Law at any stage of the proceeding allow either party to alter amend the pleadings before commencement of the trial no application for amendment shall be allowed after the trial has commenced unless the court come to the conclusion that in spite of due diligence, the party could not have raised the same. In this case the proposed amendment does not change the nature of suit or displaces the case of the plaintiff or rights already accrued to the

plaintiff. If the application is allowed no prejudice will be caused to the plaintiff. The delaying filing the application may be condoned by imposing heavy cost on the plaintiff. Hence, the defendant NO. 5 to 7 has made out grounds to allow this application. Accordingly this court answered Point No.1 is in the **Affirmative**.

**11. Point No.2:-** In view of the above said discussion and reasoning this court proceeds to pass the following;

**ORDER**

***The application filed by the defendant No.5 to 7 under Order 6 Rule 17 R/w Sec. 151 of C.P.C. is hereby allowed on cost of Rs.500/-.***

***For amendment and amended written statement.***

(Dictated to the Stenographer directly on computer, transcribed by her, corrected and signed by me and then pronounced in open court on 3<sup>rd</sup> day of December 2025).

Sd/xx

( Chaithra L)

Civil Judge & J.M.F.C  
Kushalnagar.