

KAKL510004552016



**IN THE COURT OF PRL. CIVIL JUDGE &
JMFC, AT K.G.F.**

PRESENT: Sri.VINOD KUMAR.M BAL,,LLB,LLM.,
PRL. CIVIL JUDGE & JMFC
AT K.G.F.

OS No.95/2016

Dated this the 19th day of November - 2025

BETWEEN :

Sri. Jayaram Reddy

....Plaintiff

-V/s-

Sri. B.C.Manjunath & another

....Defendants

IA No.II

Sri. B.C.Manjunath,
S/o M.B.Chandraiah,
Aged about 31 years,
R/at: 4th Cross Road,
Robertsonpet,
K.G.F.

... Applicant/Defendant No.1
(By **Sri.NS. Adv.,**)

V/s

Sri. Jayaram Reddy,
S/o late Gangammanavara Rami Reddy,
Aged about 60 years,
R/at: Parandahalli Village & Post,
Via Robertsonpet,
K.G.F.

... Opponent/Plaintiff
(By **Sri.RSN. Adv.,**)

i.	<i>Provision under which the application is filed</i>	<i>U/o VI Rule 17 of CPC</i>
ii.	<i>Relief sought for</i>	<i>Amendment of Written Statement</i>
iii.	<i>The date on which the application is filed</i>	<i>22-09-2025</i>
iv.	<i>Number of the application</i>	<i>IA No.II</i>
v.	<i>The date on which the objections are filed by different opponents</i>	<i>03-11-2025</i>
vi.	<i>The date on which the orders were passed on the said application</i>	<i>19-11-2025</i>

ORDERS ON IA No.II U/o 6 RULE 17 R/w Sec.151 OF CPC

At the stage of cross of PW1, the defendant No.1 filed an I.A.No.II U/o 6 Rule 17 R/w Sec.151 of CPC seeking amendment of written statement by adding the Para No.22(a), in the interest of justice.

2. In the accompanied affidavit in support of application contended that, plaintiff filed suit for the relief of Permanent Injunction & other reliefs against defendants. After filing of the suit, the certain important event have taken place and he want to take said contention in written statement. The amendment is just & necessary and proposed amendment will not change the nature of suit & cause of action. If the application is allowed, no hardship to others. Hence, he prays to allow the application.

3. Per contra, the plaintiff filed objections by denying the contents of affidavit in support of application inter-alia contending that, the application filed by the defendant No.1 is

not maintainable either in law or facts. It is further that, the defendant No.1 filed this application to delay the proceedings instead of cross examination. The defendant No.1 has trying to get fabricated documents in respect of suit property. The urban water supply & drainage board never conducted any survey in suit property and question of demolish the building does not arise. The amendment is not necessary in present suit. Moreover that, the order in MA No.6/2016 clearly said that, if the construction is done in the pipe line road, then the construction is liable to be demolish. But, the plaintiff has constructed shops and is in possession of the same. There is no sufficient ground to allow the application. On this ground, she prays to dismissal the application.

4. Heard the arguments by counsel of defendant No.1 & plaintiff. Perused the documents available on record.

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

1. Whether the proposed amendment to written statement is just and necessary to decide the controversy between the parties?

2. What Order?

6. My findings to the above points are:-

Point No.1 : In the **Affirmative**

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

REASONS

7. **Point No.1:** It is not in dispute that, the plaintiff has filed a suit against defendants for relief of Injunction in respect of suit schedule property. When the matter is set down for

cross of PW1, at that time, the defendant No.1 filed present application sought for amendment to written statement by adding the Para No.22(a) and it is just & necessary for amendment to prove its contention after events taken place. On other hand, the plaintiff contended that, water supply board & drainage board never conducted survey for construction of shops in pipe line road. The application is filed to drag on the proceedings. If the application is allowed, the nature of suit & cause of action would be change.

8. I have perused the averments made in the plaint and written statement filed by both parties in this suit. On perusal of suit for Injunction filed by plaintiff in respect of suit property. But the defendants contended that, the plaintiff wanted to restrain from stopping the construction in alleged property without any holding sites and Karnataka Water Supply Board & Drainage Board never conducted any survey to find out the construction of plaintiff's shops on pipe line road. On other hand, the plaintiff has denied the said contention. In order to prove the said contention, the defendant No.1 has very much necessary to implead the proposed amendment into written statement for adjudication.

9. From the contention of defendant No.1 that, the plaintiff has denied the construction of shops on pipe line road as per survey conducted by Karnataka Water Supply Board & Drainage Board. On other hand, the plaintiff contended that, she never constructed the shops on pipe line road. In order to decide the contention of both parties to resolve the issue, it is

necessary to permit for amendment in written statement in respect of said contention. The proposed amendment is necessary for adjudication of the matter to resolve the issue between both parties in respect of their property.

10. It is important to know the proviso of **Order 6 Rule 17 of CPC** reads as follows:

Provided that, no application for amendment shall be allowed after the trial has 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.

The Rule 17 inserted in the Amendment of 2002 restricts the power of the court to allow amendments of pleadings at any stage of the proceedings. It says that the court cannot grant permission for amendment after the trial has commenced. However, the court may allow the amendment if it thinks that, even after due diligence, it was not possible for the party to raise the matter before the trial. By close reading of **Order 6 Rule 17 of CPC**, this section gives discretionary power to the court to decide on the application of pleadings even after found due diligence of the trial. An institution of the suit is necessary for applying for amendment of pleadings.

11. In support of my view, I am relying decision laid down in **Gayathri Womens Welfare Association V/s Gowramma & another**, reported in 2011(2) SCC 330, wherein Hon'ble Apex Court held as hereunder:

31. In our opinion, the decision of the trial court is in conformity with the aforesaid principles. The trial court has clearly held that the cause of action for the relief of possession arose to the respondents many years ago. They may, therefore, have a cause of action, if any, for an independent suit. In the aforesaid case, the Court further reiterated the principle in Ganga Bai Vs. Vijay Kumar¹³ wherein it was rightly observed :

"The power to allow an amendment is undoubtedly wide and may at any stage be appropriately exercised in the interest of justice, the law of limitation notwithstanding. But the exercise of such far-reaching discretionary powers is governed by judicial considerations and wider the discretion, greater ought to be the care and circumspection on the part of the Court."

12. In order to ascertain the facts, it needs to commence trial after allowing the application to decide the contention of defendant No.1 in written statement. Such being, the contention of plaintiff regarding changing the nature of suit and cause of action cannot be consider. If any other contention of plaintiff can be consider on the merits in full-fledged trial, but not at this stage. As per proviso of **Order 6 Rule 17 of CPC** in case the amendment to pleadings before commencement of trail, the court has to allow the same for the purpose of determining the real questions in controversy between the parties. Then only, parties can amend the pleadings at any stage of the proceedings in order to give final verdict and to avoid multiplicity of proceedings. It is just and necessary to consider the application filed by defendant No.1 regarding amendment of contention in written statement to

decide the issue between the parties. Therefore, the ratio laid down by Apex Court in **Gayathri Womens Welfare Association** case and proviso U/o 6 Rule 17 of CPC are clearly applicable to present case in my hand. On these grounds, the objections filed by plaintiff cannot consider at stage until full fledged trial. Hence, it is very much necessary to amendment of written statement by proposed amendment in order decide the issue between the parties subject to consider on payment of cost. Accordingly, I answered to **Point No.1** in the **Affirmative**.

13. Point No.2:- In view of any aforesaid findings proceed to pass the following:

ORDER

IA No.II U/o 6 Rule 17 of CPC filed by the defendant No.1 is hereby allowed on cost of Rs.100/-.

Consequently, the defendant No.1 shall permit to carry out the amendment within time and to file amended written statement.

No order as to cost.

(Dictated to the Stenographer directly on computer, revised and corrected by me and then pronounced in open court on this the **19th day of November, 2025**)

Sd/-
(VINOD KUMAR.M)
P.C.J., & JMFC.,
K.G.F.