

ORDER ON IA No.VII

This application is filed by the plaintiff under Order VI Rule 17 read with Section 151 of CPC to permit her to amend the plaint as detailed in the application.

2. In the affidavit filed to the application, it is stated that the present suit is filed for ejectment. The suit at the first instance was filed against the defendant No. 1 alone. Thereafter, the second defendant was impleaded in the suit on the application filed by the plaintiff. The plaintiff has clearly stated that defendant no. 1 being the brother of the second defendant has sublet the suit schedule property to defendant no. 2. Accordingly, the defendant no. 2 is impleaded. Therefore it is necessary to plead with regard to subtenancy and binding nature of tenancy relationship and also to claim relief against the defendant no. 2. The proposed amendment is very much essential to decide the case on hand. Hence the present application is filed.

3. The defendant no. 1 filed objection to the application and stated that the plaintiff has sworn to false affidavit. The plaintiff filed the suit for ejectment. At the time of filing suit, the plaintiff made allegations against defendant no. 1 only. The defendant no. 1 filed his written statement denying the allegations and taking specific defence. Therefore, the plaintiff cannot amend the plaint at this stage. The proposed amendment is not at all necessary. It is

an afterthought. It is filed with an intention to divert the proceedings and to drag on the proceedings. The proposed amendment will create new cause of action. It will introduce new case. Therefore, it is prayed to dismiss the application.

4. Heard and perused.

5. The point that arises for my consideration is as follows ;

Whether the plaintiff has made out sufficient grounds to permit her to amend the plaint as sought for?

6. My answer to the above point is in the **Affirmative** for the following ;

REASONS

7. The present suit is filed for ejectment in the year 2023 against the defendant no. 1 only. The defendant no. 1 appeared before the court and failed to contest the suit. Thereafter he filed his written statement with application which is allowed by this court on costs. The plaintiff filed IA No. 6 to implead the proposed defendant no. 2. Notice was duly served on him. But, he failed to appear before the court. IA No. 6 was allowed and proposed defendant no. 2 was ordered to be impleaded as defendant no. 2. Accordingly, the plaintiff impleaded the defendant no. 2. Thereafter, suit summons was issued and it was duly served on him. But, he remained ex parte. The present application is filed to include averments

against the defendant no. 2 and to claim relief against him. In the affidavit filed to the application, it is stated that the defendant no. 1 has sublet the plaint schedule property to the defendant no. 2, who is his brother. Therefore, there is necessity to make averments in the plaint about the subtenancy and to claim relief against the defendant no. 2. In the objections filed to the application, it is stated that the plaintiff cannot be permitted to amend the plaint after filing of written statement by the defendant no. 1 by taking specific defence. There is no provision under law prohibiting the plaintiff to amend the plaint after filing of written statement. The present suit is for ejectment. The defendant no. 1 in his written statement denied the relationship of tenant and landlord between himself and the plaintiff. In the proposed amendment, it is stated that after thorough search in the office of Grama Panchayath Basagarally, the plaintiff came to know that the defendant no. 2 obtained license from Grama Panchayath to run provision store in the plaint schedule property. The proposed amendment will not change the nature of the suit. After amendment of the plaint by including the proposed amendment, the defendant no. 1 has got opportunity to file his written statement and he can take his defence accordingly. Therefore this Court is of the considered view that it is just and necessary to allow the plaintiff to amend the plaint as sought for. Accordingly, the above point is answered in the

“Affirmative”. Hence, this court proceeds to pass the following:

ORDER

IA No.VII filed under Order 6
Rule 17 of CPC is hereby
allowed.

The plaintiff is permitted to
amend the plaint as sought for.

For amendment and for
amended plaint call on
06.08.2026.

**I-Addl. Senior Civil Judge & JMFC.,
Maddur.**

