

**IN THE COURT OF THE PRL. CIVIL JUDGE & J.M.F.C,
NAGAMANGALA**

PRESENT:

Sri. Shivaraju H.S.
B.A.Law., L.L.B,
Prl. Civil Judge & JMFC, Nagamangala

DATED THIS 18th DAY OF OCTOBER-2025

O.S.No.290/2017

Plaintiff : Rajaram.

Versus

Defendant : Girish

PARTIES IA No.XVII

Applicant : Girish.
..... Defendant

(By Sri.K.G.L.S., Advocate)

Versus

Opponent : Rajaram.
..... Plaintiff

(By Sri.H.J.U., Advocate)

**This application came to be filed when matter was pending for
evidence of defendant.**

ORDER PASSED ON I.A.NO.XVII

Applicant/defendant has filed this application under Order VI

Rule 17 of CPC seeking amendment of written statement i.e., insertion of proposed amendment.

2. It is stated in the affidavit of defendant filed in support of application that, the plaintiff has filed the suit against the defendant for the relief of declaration and injunction. As of now, case is pending for defendant evidence. The proposed amendment is in respect of typographical mistake in the prayer column. That, due to typographical mistake in the written statement, it is typed as "suit of the plaintiff may be decreed" instead of "suit of the plaintiff dismissed". The proposed amendment will not introduce any new case or cause of action. Therefore, it is necessary to amend the written statement as per proposed amendment. It is further stated that, if the application is allowed, no hardship will be caused to the plaintiff and on the other hand, if the said application is rejected, defendant will be put into irreparable loss and hardship will be caused. Hence, prays to allow the application.

3. The plaintiff has resisted the application by way of filing written objection. In the objection, it is contended that, the application filed by the defendant is not maintainable in the eye of law. The application is filed after commencement of trial is not maintainable

and same is barred by law. As such, if the application is allowed, the cause of action will also be changed. Hence, the application is not maintainable and prayed to dismiss the same.

4. Heard both the Counsel and perused the record.

5. Upon hearing and on perusal of materials placed on record, the following points that would arise for my consideration:-

POINTS

1. Whether the defendant has shown that the proposed amendment is just and necessary in this case for proper adjudication of the dispute?

2. What order?

6. My findings to the above Points are as under:-

Point No.1: In the Affirmative,

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

REASONS

7. **Point No.1**:- The plaintiff has filed this suit against the defendants for the relief of declaration and injunction.

8. Before advertng to the rival contentions of the parties, it is useful to refer the ratio laid down by the Hon'ble High Court of

Karnataka in ***ILR 2003 KAR 71 (Kumar and others v/s Kothandapani)*** which reads thus:-

“3. CPC.1908(Central ActNo.V of 1908)-Sec 115-order 6, Rule 17-The respondent/plaintiff in a suit for permanent injunction against the petitioners filed IA.No.7 Under 6 Rule 17, CPC seeking additional relief of mandatory injunction on the ground that certain constructions have been put up during the pendency of the suit and the said IA., was allowed by the Trial Court. The petitioners opposed IA.7 on the ground that the proposed amendment will change the nature of the suit and therefore the order of the Trial Court warrants interference in revision.

HELD: The Amendment appears to have been necessitated on account of subsequent events, which took place during the pendency of the suit. That being so, in order to avoid multiplicity of suits, the Respondent/plaintiff thought it proper to amend the plaint suitably which cannot be said to be either improper or incorrect. Even otherwise, it will not in anyway change the nature of suit. The proviso to sub-section 1 of Sec. 115 of CPC puts a restriction on powers of the Court as this Court shall not vary or reverse any order made except where the order made would have finally disposed of the suit or other proceedings or the said order

would occasion a failure of justice or cause irreparable injury to a party against whom it is made.”

9. In the instant case, the defendant has sought amendment in the written statement i.e. insertion of proposed amendment in respect of typographical error that suit of the plaintiff may be decreed instead of dismissed. The suit is being one for declaration and injunction on suit property and also proposed amendment is relating to typographical error, if the application is not allowed, the defendant will be put into great loss and hardship. As such, this court is of the opinion that, it is just and proper to allow the defendant to amend the written statement. Otherwise, it would cause injustice to either parties to the suit. If amendment is allowed, no cause of action nor nature of suit will change.

10. Therefore, this court is of the opinion that, if opportunity is given to the defendant for amendment, no hardship would be caused to the plaintiff. Further, plaintiff is at liberty to file subsequent pleadings or rejoinder. ***Hence, considering all these aspects and ratio laid down in the decision referred supra, this court answered the Point No.1 in the Affirmative.***

11. **Point No.2**:- In view of the reasons assigned in above, this court proceed to pass the following:-

ORDER

I.A.No.XVII filed by the defendant under
Order VI Rule 17 of CPC is hereby allowed.

Defendant is permitted to amend the
written statement as sought in the proposed
amendment and to file amended written
statement well within 14 days as per the
provisions of Order VI Rule 18 of CPC.

No order as to costs.

(Dictated to the Stenographer on Computer directly, typed by him, Order corrected and signed by me, then pronounced by me in the Open Court on this the **18th day of October-2025**)

(Shivaraju H.S.)
Prl. Civil Judge & JMFC,
Nagamangala.
