

KAMS410000462016



**IN THE COURT OF PRINCIPAL CIVIL JUDGE & JMFC.,**  
**KRISHNARAJANAGAR**

**PRESENT**

**Sri. Chandan S, B.Com., LL.B**

**Prl. Civil Judge & JMFC, Krishnarajanagara.**

**DATED 01<sup>ST</sup> DAY OF AUGUST 2025**

**O.S./09/2016**

**Plaintiff : M.B.Suresha**

**-V/s-**

**Defendants : Manchegowda and others**

**I.A. No.13**

**Applicant : M.B.Krishnegowda**

**--- 2<sup>nd</sup> defendant**

**-V/s-**

**Opponent : M.B.Suresha**

**--- plaintiff**

**ORDER ON I.A.13 FILED U/O 6 R-17 R/W SEC. 151 OF C.P.C.**

The present application has been submitted, ventured and presented before this court with a request to cause amend to the written statement in the form of additional pleadings as proposed in the application.

**2.** Further the applicant has filed this application and he has also furnished and submitted his affidavit in support of the said application. Further in the said affidavit, the applicant stated on

oath that, the plaintiff filed the suit for partition and separate possession against the defendants and the matter is set up and listed for further chief-examination of DW-1. The plaintiff in his cross-examination admitted specifically that, he has not included the Mangaluru tiled house property, three vacant site property. At the same time, the suit of the plaintiff is not maintainable, since the same is brought referred and filed for the partial partition.

**3.** Therefore according to the applicant/defendant, the additional pleadings which are proposed and requested for incorporation are very necessary to be dealt, adjudicated and decided and the same is very prominent, primal and pivotal and absolutely required for the purpose of deciding the suit on merit and meritoriously. Hence, prays for allowing the application.

**4.** Further contrasting and retorting militating the application, the objection is filed by the plaintiff, wherein in the said statement of objections, it has been adverted, advanced and submitted that, the application is not maintainable and it has been filed with untenable false, crooked, swank and barrat statements. Further according to the plaintiff, the evidence of the plaintiff already produced, laid and tendered before this court. The properties which were proposed and asked for the purpose of intercalation, addition and requested for inserting in the same in the suit schedule furnished along with the plaint were already brought and placed before this court in the form of

schedule properties. Therefore, the application has been filed with an intensity thought process unlawfully in order to expel and procrastinate the proceedings without any valid, legible and considerable reasons. Therefore according to the plaintiff, the application is filed with created, concocted, fable and invented pleadings and the same is far away from the facts and truth which is not filed and brought with a proper prospect and intention. Therefore, prays for dismissal of the application.

5. Heard the counsel for the applicant and the opponent/plaintiff.

6. The following points arise for this court's consideration.

**1) Whether applicant has made out sufficient grounds for allowing the present application?**

**2) What Order?**

7. This court findings on the above points for consideration are as under:

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

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

### **REASONS**

8. **POINT NO.1:**

According to the applicant/defendant, in the cross-examination of the PW-1 he has candidly reflected, recognized and admitted that, some properties described, shown, explained

in the application are not inserted, brought on record and they are not shown as a schedule properties as described in the plaint. Therefore according to the applicant/defendant, the properties which were proposed, adverted, heightened and aggravated through the application are also necessary to be inserted, added and brought on record in the form of additional pleadings by way of amendment addition to the written statement.

**9.** According to the applicant/defendant, the said amendments which were proposed and asked for the rectifications in the written statement in the form of additional pleadings are very necessary prominent, primary, pivotal and essential having significant role in deciding the application on merit. However, according to the plaintiff, in his statement of objections, the application is presented with the negative motive, ill-intensity and illegitimate thought process. Where according to the plaintiff all the properties which were proposed and asked for inserting in the written statement are already shown furnished in the schedule submitted along with the plaint. Hence, there is no necessity for the amendments to the written statement in the form of additional pleadings. Therefore as per the plaintiff, the application is enrolled, brought and ventured only with an intention to dodge, linger and procrastinate the proceedings of the suit.

**10.** At this juncture on vetting the provision of order 6 rule 17 of C.P.C. as envisaged under the code is to facilitate and enable the parties to the suit to amend their pleadings. Further whenever any such applications are moved for seeking amendment of their respective pleadings, the court may allow either party to amend their pleadings in such a manner and on such terms that all such amendments if they are necessary for the purpose of determining the real controversies between the parties. However this court may allow and consider those applications which are filed for amendment at any stage of the proceedings.

**11.** Moreover by simplicitor, merely and nobbut permitting the applicant for amendment of his pleadings that itself does not convey or create any right on the persons in respect of pleadings but the amendments that are make out by way of alteration or by way of incorporation even otherwise by way of amendment. Rather whenever the amendments are permitted, it is the applicant who has to prove their pleadings and they are under the obligation to prove their pleadings by providing with suitable evidence in support of their pleadings. As such, whenever the said application is made out for amendment of the pleadings, the said application if denied and not permitted, the very purpose and purport of the act does not serve and achieve the inception of the very provisions. Accordingly, these kind of the applications

must not be considered sparingly, pedantic and too inexorable manner.

**12.** Therefore, whenever such applications are come across before this court, rather to view such applications with strict and stringent sense, on the contrary if those applications are not allowed and amendment is denied and disallowed, in that event, even if the applicant succeeded in this suit, he would go by and rendered remediless and it may also leads to curtailing, restricting and obliterating their part of legal obligations. Further in the opinion of this court no prejudice would be caused in favour of the defendant, if the amendment application is allowed and hence for the reasons discussed above, the said application is hereby liable to be allowed. Hence, this court without further discussion proceeds to answer **point No.1 in the affirmative.**

**13. POINT NO.2:**

In view of the above discussion and reasons mentioned therein this court proceeds to pass the following:

**ORDER**

The I.A. No.13 filed by defendant under order 6 rule 17 R/w Sec. 151 of C.P.C. is hereby **allowed.**

Accordingly the applicant is permitted to amend his pleadings of written statement as

prayed in the application and he is also directed  
to furnish the fresh amended written statement.

(Dictated to the Stenographer transcribed by her, revised, corrected, signed and then pronounced  
by me in the open Court on this the 01<sup>st</sup> day of August 2025)

**(Chandan S)**  
**Prl. Civil Judge & JMFC.,**  
**K.R.Nagar.**