

**ORDER ON I.A. 5 FILED U/O 6 R-17 R/W SEC.151 OF
C.P.C.**

The present application has been instituted, enrolled and the same came to be filed before this court asking, soliciting and also requesting for alterations amendment and modification of the plaint pleadings as craved appealed pleaded in the present application.

2. Further while submitting the present application applying for the said reliefs an affidavit in support and to backup the said application has also been preferred and also filed before this court. Wherein the applicant deposes, state and submitted on oath before this court that, the suit has been filed for the relief of declaration and other consequential reliefs of injunction as against the defendants. Further the recitals would indicate and reveal while preferring the suit due to oversight, kink, omission and mistake specific plea that, the calculation of the sub registrar valuation of the plaint

schedule property has not been included, inserted and intercalated. Therefore according to the applicant, the application, inception and registration of the application which was invoked and presented under the provision of O-7 R-11 of C.P.C. Wherein while passing the orders, this court has considered and given findings that, the said application will be considered on merit of the suit during the pending disposal of the suit during further proceedings of the matter. Therefore, according to the applicant, the said plea and the amendment which is craved and appealed for is very necessary essential and requisite and it is very much important to decide the said issue regarding the jurisdiction of this court. Therefore according to the applicant/defendant herein, the said amendment and alterations of the pleadings which was asked and requested for is very important, pivotal and remarkable significant it will play vital and remarkable role and characters in deciding the factors and issue. Therefore according to the applicant, the amendment craved in the form of incorporation and insertions is very much important to support, prove, establish and to back up the pleadings of the written statement. Therefore, he prays for allowing the said application.

3. On the contrary opposing the repelling, retriating and confronting the said application, the objections are also being presented and submitted before this court. Wherein in order

to combat retaliate and to rebut the application in the statement of defence in the form of objections it has been specifically held, stated and described in the statement of objections that the application which was incept, moved and enrolled before this court is not maintainable and the same is to be dismissed.

4. The reasons and grounds that were assigned, presented and submitted by the opponent is the proposed amendment will introduce and enact new set of facts into the written statement. The pleadings must contain only material facts but not the laws, the principles and the pleadings laid down in O-6 R-17 of C.P.C. clarifies the amendment is not permissible and allowable, after the commencement of the trial. Further the contents and the statement of objection would enunciate and it will lead that, the defendant is having intensity, thought and purport to completely displace the plaintiff and the intensity objection and purport is only to prolong, extend and to linger the further proceedings of the suit. The defendant with a mala-fide mischievous intention, this application is preferred and placed before this court. Hence, prays for dismissal of the application.

5. Heard and perused.

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:

After thoughtful attention, careful reference, perusal and assessing the pleadings contemplated and devolved upon in the application as well as in the statement of objections, the suit initially, previously registered for the relief of declaration, proclaim, announce and avowing and notifying the plaintiff to be the owner and other axillary and incidental consequential relief of injunction. The present application is invoked maintained and the same has been placed before this court with the claim and with the plea that, the sub registrar valuation could have been included, inserted and incorporated in the written statement, pleadings while during and drafting the said written statement.

9. However due to error, mistake, omission and carp on the part of the typing, the said recitals and the contents which

were appealed before this court could not to be possible, include, insert and to add in the said statement. Further according to the very applicant, the said modification, amendments which are asked for is very important necessary essential and it is very remarkable to denote and the said amendments in the form of insertions is very pivotal and it will play, place very significant, vital, considerable and remarkable role in deciding and passing orders regarding jurisdictional matters.

10. Further according to the applicant/defendant herein, the said prospects is huddled gathered collected and noticed very recently. Therefore, according to the said applicant/defendant herein, the said amendment application which is placed and presented before this court is very important and it will play very prominent and remarkable role in establishing and supporting the pleadings of the statement, he may be permitted to alter, amend, incorporate and modify the written statement as it was prayed in the application. Further on the contrary the said application has been retreated, confronted and repelled while retaliating and defying the said application, the plaintiff on the contrary would state urge and contend in the form of objections that, the pleadings must contain only the material facts but not the law. Further as per the principle laid down the O-6 R-17 of C.P.C. once the trial is

commenced initiated and started, no such application for amendment are allowed and permissible.

11. 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.

12. Moreover by simplicitor permitting the applicant for amendment of their pleadings that itself does not convey or create any right on the persons in respect of pleadings but the amendments that are made 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 very inception of the very provisions. Accordingly, these kind of the applications must not be considered sparingly, pedantic and too inexorable.

13. Therefore, whenever such application are come across before this court, rather to view such application with strict 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 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 allowed. Hence, this court without further discussion proceeds to answer **point No.1 in the affirmative.**

14. 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.5 filed by defendant under order 6 rule 17 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.

For amendment and amended written statement.

Call on: 07.07.2025.

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