

KAMS500001052020



**IN THE COURT OF SENIOR CIVIL JUDGE & JMFC
NANJANGUD**

Present : **Sri. Kamalaksha D., B.A., LL.B.,**
Senior Civil Judge & J.M.F.C.,
Nanjangud.

Dated this the 25th day of June 2025

O.S./22/2020

Plaintiffs : Ningamma and others

-V/s-

Defendants: H.G.Mahadevappa and others

I.A. X

Applicant : Uddandappa
....defendant No.4
(By Sri. M.J.S., Adv.)

-V/s-

Opponents : Ningamma and others
...plaintiffs
(By Sri. M.A.S., Adv.)

ORDER ON I.A. X UNDER ORDER
VI RULE 17 OF CPC

The defendant No.4 has filed this application to amend the written statement as sought in the application.

2. According to the defendant No.4, the suit is filed for the relief of partition and separate possession. He already filed written statement and the suit is at the stage of cross-examination of plaintiffs. While going through the records his counsel has told him that some important legal defence are not included in the written statement. So, the amendment of written statement is very much required to decide the dispute between the parties properly. Since the cross-examination is not commenced, the plaintiffs will have opportunity to lead further evidence to counter the proposed defence. Hence, he prays to allow the application.

3. The plaintiffs filed objections to the said application stating that, the application is to be dismissed,

because the defence proposed to be included in the amendment is self-created and fabricated. The proposed amendment will change the nature of defence, because the defendants have already taken definite stand of defence. Suppose the amendment is permitted it would conflict with earlier defence. Hence, pray to reject the application.

4. Heard the arguments. Perused pleadings and materials placed on record. The points that arise for my consideration are:

1. Whether the applicant/ defendant No.4 has made out grounds to amend the written statement?

2. What order ?

5. The above points are answered as follows :-

Point No.1 : In the affirmative

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

REASONS

6. **Point No.1** :- The 4th defendant filed application to amend the written statement to add the proposed

amendment after para No.6 in the written statement. It means to say that the defendants will not delete the defence which has been already introduced by them. The proposed amendment is additional defence as per the applicant / 4th defendant, because in the affidavit he explains that the proposed amendment will give correct defence to contest the suit, otherwise it will definitely cause hardship to adjudicate the matter properly. As rightly mentioned by the applicant, the amendment will not cause hardship, because the plaintiffs will have chance to put cross questions by way of counter to the defence. Suppose the amendment is not permitted it will amount to deny the chance to contest the suit in proper manner. Hence, point No.1 is answered in the affirmative.

7. **Point No.2:-** In view of the findings on the above points, this Court proceeds to pass the following:

ORDER

I.A.X filed by the defendant No.4 under Order VI Rule 17 of CPC is allowed with cost of Rs.300/- payable to the plaintiffs.

The defendant No.4 is permitted to amend the written statement.

(Dictated to the stenographer, transcribed by her on computer, revised, corrected and then pronounced by me in open Court on this the 25th day of June 2025).

(Kamalaksha D.)
Senior Civil Judge & J.M.F.C.,
Nanjangud.