

KARN220003882023



**IN THE COURT OF THE ADDL.CIVIL JUDGE & JMFC, AT
CHANNAPATNA.**

**Present: Smt. Usharani.B.N., B.A, LL.B.LLM.,
Addl. Civil Judge & JMFC.,
Channapatna.**

Dated this 27th day of MAY - 2024

O.S. NO.40/2023

PLAINTIFF : Smt. Rekha

-Vs-

DEFENDANTS : Sri. Hanumantha & others

I.A.No.VIII

APPLICANT/PLAINTIFF : Smt. Rekha

(By Sri M.M., Adv.)

V/s

OPPONENTS/DEFENDANTS : Sri. Hanumantha & others

(By Sri R.V.K., Adv.)

<i>Provision under which the application is filed</i>	<i>U/O VI R 17 rws 151 of CPC</i>
<i>Relief sought for</i>	<i>For amend the written statement</i>
<i>The date on which the application is filed.</i>	<i>15.09.2023.</i>
<i>Number of the application</i>	<i>VIII</i>
<i>The date on which the objections are filed by different opponents</i>	<i>11.03.2024</i>
<i>The date on which the orders were passed on the said application</i>	<i>27.05.2024</i>



ORDERS ON IA.No.VIII

The counsel for the defendant has filed an I.A No.VIII under order VI rule 17 r/w Sec.151 of C.P.C. seeking permit to amend the written statement as prayed for.

AMENDMENT SOUGHT FOR

1. To include the following word 'belong to one' in para 13 at page 6 at line 2, after the word 'was originally' and before the word 'Chikkalagaiah'.
2. To insert the following additional sentence in para 13, at line 2 at page 6 after the word 'Chikkalagaiah' before the name 'Venkatadasaiah'.

'In that Sy.No.542, 1 acres 24 guntas was available. Subsequently out of 1 acre 24 guntas, said Chikkalagaiah sold an extent of 0.15 guntas, in favour of Venkatadasaiah, by virtue of a registered sale deed dated 15.07.1970, as per the copy of the sale deed produced herewith'

3. to delete the following word '1 acre 24' in para 13 at page 6 at line 4, after the word 'measuring' and before the word 'guntas' and in its place to insert the word '1 acre 9'
4. to delete the following word '1 acre 24' as found in para 13 at page 7 at line 3, after the word 'respect of said' and



before the word 'guntas of land' and in its place to insert the word '1 acre 09'

5. To delete the following word '1 acre 24' as found in para 13 at page 7 at line 7, after the word 'over said' and before the word 'guntas', and in its place to insert the word '1 acre 09'.
6. To delete the following word '1 acre 24' as found in para 13 at page 7 at line 11, after the word 'occupant of said' and before the word 'guntas tenancy', and in its place to insert the word '1 acre 09'.
7. To insert the following additional sentence at para 14, page 7, at line 7, after the word '1 acre 24 guntas'

'including the adjacent land of 0.15 guntas in same Sy.No.542, so purchased by Venkatadasaiah, from Chikkalagaiah, under a registered sale deed dated 15.07.1970 prior to grant of occupancy right, the same is evidenced by the copy of the sale deed produced.'

8. To delete the following sentence from para No.15 page 7 at line No.1 as found after the word "these defendants further submit that, 'before the word subsequently'.

'during the life time of Venkatadasaiah he has purchased another extent 15 guntas of adjacent land in the same Sy.No. From one Chikkayalagaiah son of Doddaputtaiah, in the same Sy.No. By



virtue of the registered sale deed dated 15.07.1970 and the same is evidenced by the copy of the registered sale deed produced herewith. Thus, Venkatadasaiah, became the absolute owner of 01 acre 24 guntas of land in sy. No.542 of Mangalavarapet'.

9. To delete the following word '1 acre 24' as found in para 15 at page 8 at line 13, after the word 'retained ' and before the word 'guntas', and in its place to insert the word '1 acre 09'.
10. To delete the following word '1 acre 24' as found in para 16 at page 8 at line 06, after the word 'out of total extent of' and before the word 'guntas', and in its place to insert the word '1 acre 09'.
11. To delete the existing figure '36' as found in page 8 at para 16 at line 9, after the word 'retained land of' before the word 'guntas', and in its place to add the figure '21'.
12. to insert the additional word 'and the wife of Venkatadasaiah by name Chennemma' in para 16 page 8 at line 10, before the word 'Venkatadasaiah' and before the word 'have partitioned'.
13. To delete the word 'and subsequently the above four shares have sold their portions of 04 guntas each' as found in page 8 para 16 at line 11 and 12, after the word 'each equally' before the word and retained.'



14. To insert the following additional words at the end of para 16 at page 8, after the word 21 guntas with them.”

'No portion of the land is sold by these defendants in that retained portion of 21 guntas, which is remained as agricultural land, in favour of any body including the defendant.

15. To including the following additional paragraph in the written statement, after existing paragraph No.17 as:

'The contention of the defendant is that, he has purchased the suit schedule property from the 3rd defendant Venkatesh in his converted portion of 7 guntas, but the defendant laying his claim in the agricultural 21 guntas of land, retained by these defendants, towards the Eastern side of converted 28 guntas of land, hence the claim of the plaintiff is not sustainable in the eye of law.'

2. **The averments of the affidavit filed in support of the application are as follows:-**

The defendant No.1 stated that, he has sworn to the affidavit on behalf of himself and other defendants and further stated that in the above case, the defendants have filed their defense, at that time while preparing their defense by the counsel, sufficient documents were not available and in the LRF case documents, some corrections have been done by the Land Grant committee in the columns of extent of the land. Hence in their defense already filed, some error have been happened. The



defendants have secured all necessary documents very recently and verified the same and came to know that in their defense some mistakes taken place. Therefore, some important and relevant things are found missing. The left out things are just and essential one in the instant suit to adjudicate the above matter and to come to just and correct conclusion in this suit. Hence the defendants have been advised to get amend such mistakes happened in their defense and accordingly the present application is being filed seeking amendment of their written statement. Those mistakes have been happened due to oversight and typographical error and not intentional nor deliberate. If the application is allowed he may be permitted to amend the written statement by adding the proposed amendment mentioned in the application no harm or injury will be caused to other side. Same is refused he ill be put to irreparable loss and injury which cannot be compensated in terms of any means. Balance convenience lies in his favour to allow the application. **Hence filed this application.**

3. The counsel for the plaintiff has filed an objection to I.A.No.VIII and contended that, the application is not maintainable either in law or facts of the case, devoid of merits, perverse, vexatious and liable to be dismissed. The defendants



have sought for bundle of amendments, which is amendment of entire written statement, therefore it is not permissible either in law or facts of the case. The defendants have sought for amendment of facts which are admitted. The admitted facts can not be taken back, strike out or amended, and the same is not permissible in law. The defendants have filed this application only to drag on the proceedings and abusing the process of law. **Hence prays to dismiss the application filed by the defendant.**

4. The following points are arise for consideration of this court:-

POINTS

1. Whether the amendment sought by the defendants is necessary and the same is deserves to be allowed?
2. What order?
5. Heard both sides.
6. This court has perused the materials available on record and findings of this court in the above points are as follows:-

Point No.1:-	In the Affirmative
Point No.2:-	As per final order for the following:-



REASONS

7. **Point No.1** : The defendants have filed this application to permit them to amend the written statement. The plaintiff has filed this suit for permanent injunction.

8. The mentioning of mistaken description in the written statement is not intentional one, bonafide and it is curable one. The defendants recently noticed the mistakes. In order to bring clarity, they have filed this present application. If the mistakes is rectified it would be helpful for this court to decide the matter on the merits. In the interest of justice and equity, it is just and necessary to allow the application.

Order VI Rule 17: Amendment of Pleadings: as reads as follows:

“The court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real question in controversy between parties:

9. Provided that no application for amendment shall be allowed after the trial has commenced, unless the court comes to



the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial”.

10. If the application is not allowed. It leads to multiplicity of proceedings. Therefore, holding that amendment of written statement would not lead to grave injustice and serious prejudice to the plaintiff. Hence the Point No.1 answered in Affirmative.

11. Point No.2:- For the aforesaid discussion on the point No.1, this Court proceeds to pass the following:

ORDER

The IA.No.VIII under order VI rule 17 r/w Sec.151 of CPC filed by the defendants is hereby allowed.

Directed to defendants to amend the written statement and to furnish amended written statement.

(Dictated to the Typist copyist on online computer, Order corrected and signed by me, then pronounced by me in the Open Court on this the 27th day of MAY - 2024).

(Usharani B.N.)
Addl Civil Judge & J.M.F.C.,
Channapatna.



Order pronounced in open court

(Vide Separate Order sheet)

ORDER

The IA.No.VIII under order VI rule 17 r/w Sec.151 of CPC filed by the defendants is hereby allowed.

Directed to defendants to amend the written statement and to furnish amended written statement.

Call on 28.06.2024.

**Addl Civil Judge & J.M.F.C.,
Channapatna.**