

KARN320004402009



**IN THE COURT OF I ADDL. CIVIL JUDGE & J.M.F.C.
COURT AT KANAKAPURA.**

Dated: This the 16th day of April 2026

Present

Smt. LATHASHREE B.V., B.A., LL.B.,
I Addl. Civil Judge & JMFC,
Kanakapura.

O.S No.321/2009

Plaintiff : Sri. Puttaswamy Gowda
S/o Dyavegowda,
Aged about 52 years,
R/at Kadaledoddi village,
Uyyamballi Hobli,
Kanakapura Taluk.

-Vs-

Defendants 1. Sri. Anthonappa
Since dead by his Lrs.,
2. Smt. Amruthamma
W/o Anthonappa,
Aged about 65 years,
3. Smt. A.Mary Suma
D/o Anthonappa,
Aged about 32 years,

4. Smt. A.Mary Roopa
D/o Anthonappa,
Aged about 30 years,

All are R/at Kadaledoddi village,
Uyyamballi Hobli, Nallahalli Dhakle,
Kanakapura Taluk.

5. Sri. Anthony Raju
S/o Late. Anthonappa,
Aged about 39 years,
R/at Anthony Doddi,
Harobele Post, Uyyamballi Hobli,
Kanakapura Taluk.

Interlocutory Application No.VI

Defendant : Sri. Anthony Raju
No.5/
Applicant

(D.5 Sri. R.C., Adv.)

-Vs-

Plaintiff/ : Sri. Puttaswamy Gowda
Opponent

(By Sri. S.D., Adv.)

1	Provision under which the application is filed	:	Under Order 6 Rule 17 of C.P.C.
2	Relief Sought for	:	Amendment of written statement
3	The date on which the application is filed	:	06.11.2025
4	Number of the application	:	One

5	The date on which the objection is filed by different opponents	:	19.11.2025
6	The date on which the common orders were passed on the said application	:	16.04.2026

Sd/-

I Addl. Civil Judge & JMFC,
Kanakapura.

ORDERS ON INTERLOCUTORY APPLICATION
UNDER ORDER 6 RULE 17 R/W SEC.151 OF C.P.C.
FILED BY THE APPLICANT/DEFENDANTS No.5

The Advocate for applicant/defendant No.5 has filed an application under Order 6 Rule 17 r/w Sec.151 of C.P.C. seeking amendment in the written statement as mentioned in the application.

2. The said Interlocutory Application is annexed with an affidavit wherein, it is submitted by the defendant No.5 that, the plaintiff has filed the suit against him and other defendants for the relief of specific performance of contract. Further stated that, the plaintiff and defendant No.1 to 4 colluded with each other and filed this suit to deprive his right over the suit schedule property and have impleaded as defendant No.5 in that suit. Further submitted that, he has also filed a Civil Suit before this court in O.S No.19/2010 against the defendants for the

relief of Specific performance of contract and the said suit was decreed on 15.03.2017. Against the decree, the plaintiff himself set up the defendant No.1 to 4 and filed the R.A No.40/2018 before Senior Civil Judge & JMFC., Kanakapura and the said R.A was transferred to Hon'ble II Addl., District & Sessions Judge, Ramanagara to Sit at Kanakapura and new number was given as R.A No. 5145/2018 and the said R.A No. 5145/2018 was remanded back for fresh enquiry and opportunity was given to defendant No.1 to 4 to conduct O.S No. 19/2010. Against the Judgment and Decree, he has filed the execution proceedings against the defendants before this court in Ex. No. 22/2017 in the said petition the advocate for plaintiff himself filed vakalath for defendant No.1 to 4 and appears for defendants no. 1 to 4 and later the RA No. 5145/2018 allowed. Hence the said Ex. No. 22/2017 was closed.

3. Further submitted that, again the defendants No.1 to 4 appeared in O.S No.19/2010 but not cross examined the witness and did not give evidence and later the said O.S No. 19/2010 was decreed before the incharge Court i.e., II Addl., Civil Judge & JMFC., Kanakapura on 16.10.2025. Hence the plaintiff is not having right or schedule property against the defendant No.1 to 4 and only he is entitled for receiving of advance amount. Hence this

application for including all the facts in his written statement. However, during the pendency of the suit in O.S No. 19/2010 was twice decreed. Hence, the said amendment is very much necessary to prove the suit and prays to allow the application.

4. The plaintiffs have filed objection by stating that, the application is not at all maintainable both in law and on facts and the same is liable to be rejected. It is further submitted that, he was examined as PW.1 and produced the documents in "P" series and the said case was posted for further cross-examination of PW.1. At this stage, the defendant No.5 has filed this application for amendment does not arise at all and also the defendant No.5 with an intention to drag on the proceedings and also give unnecessary trouble and harassment to file baseless application. Hence, prays to reject the application.

5. Heard both the sides.

6. The following points arise for this court consideration:

1. Whether the application filed by the applicant under Order 6 Rule 17 R/w Sec.151 of C.P.C. is deserves to be allowed?
2. What Order?

7. The answers to the above points are as under:

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

REASONS

8. **Point No.1:** The present suit is filed by the plaintiff seeking for the relief of Specific Performance of Contract against the defendants over the suit schedule properties. The stage was set down for cross-examination of PW.1. Meanwhile, the said defendant No.5 has come up with the said application under Order 6 Rule 17 of C.P.C seeking amendment in the written statement of by way of seeking addition by adding the paragraphs mentioned in the said application.

9. Before proceeding with the facts and circumstances of the present application in pursuance to the averments and counter averments raised by both the parties. It is just and necessary to ascertain certain factors which needs to be kept in mind while considering an

application under Order 6 Rule 17 of C.P.C. with regard to the amendment sought in the written statement.

10. I have carefully perused the proposed amendment. It is well settled principle of law that at the time of considering the proposed amendment the court should not discuss on merits about the amendment sought for. At this juncture, it is worth to note that the decision reported in **2016 (1) KCCR 73 between Smt.**

Puttamaramma V/s Giriyappa and Others.

“The Hon’ble High Court of Karnataka held that while dealing with application filed under Order 6 Rule 17 CPC the court not to go into correctness or falcity of case for amendment and court not to record any findings on merits of amendment sought for. Further the Hon’ble High Court of Karnataka held that even the amendment application can be filed at appellate stage and the rejection application is not proper”.

11. Now keeping all these observations, when the facts and circumstances of the present suit is perused, initially the suit is filed for Specific performance of contract. Meanwhile, the defendant No.5 has come up with the said application under Order 6 Rule 17 of C.P.C.

seeking amendment in the written statement as per the proposed amendment he intend to include certain additional paras after para No.11 i.e., 12 to 17 by raising additional defence with respect to his contention in the written statement.

12. Now, in pursuance to the same, there are certain points which needs to be considered before proceedings with the application. When the defendant No.5 come up before the court seeking amendment of written statement it is well settled principle that the same is different from the amendment of plaint. In pursuance to the said observation it is beneficial to rely on the decision rendered by ***Hon'ble Supreme Court in Usha Balashaheb Swami & Ors vs Kiran Appaso Swami & Others reported in 2007 (5) SCC 602*** "Wherein, it is observed by the Hon'ble Apex Court that it is equally well settled principle that a prayer for amendment of the plaint and a prayer for amendment of the written statement stand on different footings. The general

principle that amendment of pleadings cannot be allowed so as to alter materially or substitute cause of action or the nature of claim applies to amendments to plaint. It has no counterpart in the principles relating to amendment of the written statement. Therefore, addition of a new ground of defense or substituting or altering a defense or taking inconsistent pleas in the written statement would not be objectionable while adding, altering or substituting a new cause of action in the plaint may be objectionable”.

13. Further the objection raised by the learned counsel for plaintiff is that the said defendant No.5 is filing the present application at the very later stage to drag on the proceedings and give unnecessary trouble to the plaintiff by inventing false contention. Hence, the application is not maintainable for the said reason.

14. However, on perusal of the entire material on record and in due consideration of the above made

observation by the Hon'ble Apex Court it is clear enough that the defendant No.5 can come up with the said application seeking for amendment in the written statement and the addition of new ground of defense would not be objectionable and in pursuance to the same when the interlocutory application filed by the defendant No.5 under order 6 Rule 17 of C.P.C. is perused the defendant No.5 only intends to amend by adding additional para in his written statement and further the defendant No.5 intends to include the defence in the matter which is however permissible and within the acceptable terms with respect to seeking amendment by the defendant No.5 in the written statement as in pursuance to the decisions supra.

15. Further it is to be noted that, as per well established principle of law any admissions in pleadings will not be reverted back. Hence, to the said extent on perusal this court is of the opinion that, there is no admissions as such sought for deletion by the defendant.

16. Hence, considering all these factual aspects, it is to be noted that, the ultimate ratio of the provision under Order 6 Rule 17 of C.P.C. is for the determination of real question in controversy. Hence, with the said observations, ***this court answered Point No.1 in the Affirmative.***

17. **Point No.2:** In view of above made observations on Point No.1, this court proceeds to pass the following:

ORDER

The Interlocutory Application No.6 under Order 6 Rule 17 r/w Sec.151 of C.P.C. filed by the defendant No.5 is hereby allowed.

Further, the defendant No.5 is permitted to carry out the amendment in his written statement before the concerned CMO as per the due procedure under law and furnish the amended written statement before the CMO.

Further CMO to verify the same and put up accordingly for further needful.

(Directly dictated to the Stenographer on computer, corrected, signed and then pronounced by me in the Open Court on 16th day of April 2026)

Sd/-

(Lathashree B.V.)

I Addl., Civil Judge & JMFC,
Kanakapura.