

KARN320018152015



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

Dated: This the 04th day of March 2026

Present

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

O.S No.465/2015

- Plaintiffs
- 1 Smt. Lakshamma @ Rajalakshmi
W/o D.Shivakumar,
D/o D.Lakshmidevamma,
Aged about 42 years,
 - 2 Smt. Lakshmidevamma
D/o late. M.Dasasetty,
W/o late. V.Marasaiah,
Aged about 61 years,

Both are R/at Khata
No.1586/1060, (Old No.921/945),
Mallikarjuna Nilaya, Puttadasu
Street, J.C Extension, Ward No.5,
Kanakapura Town – 562117,
Ramanagara District.

-Vs-

Defendants 1 Smt. Anasuyamma
W/o late. D.Shivaramu,
Aged about 52 years,

2 Sri. Srikanth
S/o late. D.Shivaramu,
Aged about 26 years,

Both are R/at Khata
No.1586/1060, (Old No.921/945),
Mallikarjuna Nilaya, Puttadasu
Street, J.C Extension, Ward No.5,
Kanakapura Town – 562117,
Ramanagara District.

3 Smt. Savita
D/o late. D.Shivaramu,
W/o Anil Kumar,
Aged about 32 years,

4 Sri. Anil Kumar
S/o late. Chamaraja,
Aged about 40 years,
D.3 and 4 are R/at No.07,
I floor, Bhramakumari Maharshi
Road, Kuvempu Bayalu Ranga,
Health Layout, Srigandha Kaval,
Bengaluru.

5 Smt. Dhanalakshmi
D/o late. D.Shivaramu,
W/o K.Chandrasekhar,
Aged about 30 years,

- 6 Sri. K.Chandrashekar
S/o Krishnappa,
Aged about 35 years,

D.5 and 6 are R/at No.457,
RHCS Layout,
Annapurneshwari Nagar,
Bengaluru – 560091.

- 7 Smt. Pavithra
D/o late. D.Shivaramu,
W/o Sathyanarayana,
Aged about 28 years,

- 8 Sri. Sathyanarayana
S/o late. Jayaram,
Aged about 31 years,

D.7 and 8 are R/at No.9,
9th cross, Balaji Layout,
Mallathahalli, Nagarbavi,
Bengaluru – 560072.

Interlocutory Application No.7

Defendant : Sri. Srikanth and others
No.2 to 8/
Applicants
(D.1 to 8 Sri. V.A., Adv.)

-Vs-

Plaintiffs/ : Smt. Lakshamma @ Rajalakshmi and
Opponents another
(By Sri. M.V., 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	:	13.06.2023
4	Number of the application	:	One
5	The date on which the objection is filed by different opponents	:	19.07.2023
6	The date on which the common orders were passed on the said application	:	04.03.2026

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 APPLICANTS/DEFENDANTS

The Advocate for applicant/defendant No.2 to 8 have 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.2 that, the plaintiffs have filed the suit against him and other

defendants for the relief of permanent injunction and other reliefs. Further stated that, the said suit is posted to hear on I.A No.1 but they have got some information along with copies recently regarding the suit schedule properties, which they had not incorporated and now they intended to add the same by way of amendment to the original written statement as because they have filed the written statement long back. Hence, the said amendment is very much necessary to prove the suit and prays to allow the application.

3. The plaintiffs have filed objection by stating that, the application is not at all maintainable and they have sought the relief of perpetual injunction. It is further submitted that, the defendants have admitted that as per decree in O.S No.47/1994, RFA No.558/2005, SLP(c) No.311/2014 and SLP(c) No.12922/2016 which have reached the finality on 05.09.2018 and also regarding RFA No.1234/2021 before the Hon'ble High Court of Karnataka wherein, the said defendants have undertaken not to alienate or create any encumbrance over the suit schedule properties which is pending for consideration. It is also submitted that, no final decree proceedings has been filed on the preliminary decreed dated 10.01.2005 passed in O.S No.47/1994 and that these defendants have no absolute right in the suit schedule properties and further

narrated regarding the pending cases against each other. It is also submitted that, when such being the case even the proposed amendment in the written statement if allowed will not improve as for as the right of the property is concerned unless and until final decree proceedings would be initiated for until there is a finality with respect to RFA No.1234/2021 before Hon'ble High Court of Karnataka.

4. It is further submitted that, this court has no jurisdiction to decide the title or right over the suit schedule properties when it is a suit for bare injunction and the defendants have admitted the physical possession and enjoyment of the portion of suit schedule property by the plaintiff for which an application U/o 12 Rule 6 r/w Sec.151 of CPC is pending for consideration and these defendants have filed objection wherein it is the replica of the present amendment sought by them. Hence, the said application cannot be allowed and that in the application there is no reasons shown as to why the plea was not raised in the original written statement. 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 plaintiffs seeking for the relief of permanent injunction against the defendants over the suit schedule properties. The stage was set down for hearing on I.A No.6. Meanwhile, the said defendant No.2 to 8 have 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 Giryappa 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 permanent injunction. Meanwhile, the defendant No.2 to 8 have 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 they intend to include certain additional paras after para No.14 i.e., 14(a) to 14(d) by raising additional defence with respect to their 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.2 to 8 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 plaintiffs is that the said defendant No.2 to 8 are filing the present application which is nothing but the

replica of the objection raised to I.A No.6 and no proper reasons are furnished as to why there is a delay in raising the said plea earlier and also that if the same is allowed also it will not confer any title to the defendants.

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.2 to 8 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.2 to 8 under order 6 Rule 17 of C.P.C. is perused the defendant No.2 to 8 only intends to amend by adding additional para in their written statement and further the defendant No.2 to 8 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.2 to 8

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.7 under Order 6 Rule 17 r/w Sec.151 of C.P.C. filed by the defendant No.2 to 8 is hereby allowed.

Further, the defendant No.2 to 8 are permitted to carry out the amendment in their 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 04th day of March 2026)

Sd/-

(Lathashree B.V.)

I Addl., Civil Judge & JMFC,
Kanakapura.