



IN THE COURT OF PRL. CIVIL JUDGE AND JMFC.,
KUNIGAL

Present:

Smt Sujatha A.B., B.A.L., L.L.B.,

PrI Civil Judge & JMFC., Kunigal.

Dated: This the 14th day of October, 2025

O.S.NO.37/2019

Plaintiffs : Sri.Chandraiah and others

V/s

Defendants : Sri. P.N.Srinivasagowda and others

I.	Provision under which the application is filed	Under Order 6 Rule 17 of CPC R/w 151
II.	Relief sought for	For amendment of Plaint
III.	The date on which the application is filed	11.07.2020
IV.	Number of the application	VI
V.	The date on which the objections are filed by	12.02.2025
VI.	The date on which the order were passed on the said application	14.10.2025



Applicant : Chandraiah(plaintiff No.1)

V/s

Opponent : Sri. P.N.Srinivasagowda and others

**ORDERS ON APPLICATION (IA NO.VI) FILED BY THE
PLAINTIFF U/O. VI RULE 17 OF CPC.,**

This application is filed by the plaintiff U/o.VI Rule 17 of CPC R/w 151 praying this court to permit them to add para No.6(a) and prayer in the plaint as prayed in the application.

2. The application is supported by affidavit, wherein the plaintiff No.1 stated that they have filed suit for the relief declaration and permanent injunction and as on the date of suit he has filed the application to grant interim temporary injunction by restraining defendants or their agents, servants or anybody acting on behalf from obstructing plaintiff from using 'C' schedule path way to



reach their residential house from main road. But the court was issued emergent notice on IA No.1 thereafter the defendant evaded the court summons notice on IA No.1. But in the meanwhile by taking undue advantage of the same they illegally constructed building and compound wall by including 'C' schedule by unlawfully and in order to sought the prayer for demolish the same it is necessary to amend the plaint and if the application is not allowed they will be put to hardship, on the other hand no loss or injury to the defendants. Hence plaintiffs prayed to allow the application.

3. On the other hand, defendants have filed the statement of objections by denying the contentions of the plaintiff. The defendants stated that plaintiff has not stated valid ground to amend the plaint and this is only



for delay tactics of the plaintiff to harass the defendants and plaintiff has not furnished a piece of document to substantiate his affidavit and same is not maintainable. The defendants stated that if at all they constructed illegal building and compound wall on 'C' schedule, plaintiff would have filed complaint before jurisdictional Grama panchayath against the defendants but he has not taken any such action about the same and above application is false. According to defendants they had left 8 feet road to access for main road. So both parties are still using the the same path way from time immemorial, but plaintiff has suppressed all these facts and filed false application for unlawful gain. Among these grounds the defendants prayed to reject the application.

4. Heard arguments and perused the records.



5. The following points would arise for the determination:

1. Whether the present application as sought by the plaintiff is just and necessary for the proper adjudication of the matter involved in the suit?

2. What order?

6. The findings on the above said points are under:

Point No.1 : *In the Affirmative*

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

REASONS

7. **Point No.1 :-** Admittedly the plaintiffs have filed the above suit for the relief of declaration and permanent injunction and in this case the plaintiff has examined himself as PW.1 and when case was posted for further chief of PW.1 at that time above application came to be



filed. According to plaintiffs initially he has filed suit for IA No.1 for temporary injunction and when court was issued summons and emergent notice on IA No.1, at that time the defendants intentionally evaded the service of summons and in that duration they have illegally constructed the compound wall and building by including 'C' schedule. So in that regard he intending to plead the same in his plaint.

8. It is noticed that present suit filed on 29.01.2019 and in view of non service of summons to the defendants, the plaintiff has filed the application for appointment of special process server to serve the summons to the defendant No.2 and 3. On the other hand, the defendant No.1,5 and 6 have appeared through their counsel on 24.04.2019 and they have filed their written statement on



06.01.2020. When plaintiff intending to plead about construction made by the defendants during the pendency of the suit then it is the burden on the plaintiff to prove the same and to resolve the matter in dispute, it is necessary to given an opportunity to the plaintiff to amend his plaint. Further more plaintiff evidence is not at all completed.

9. In view of the above observations, this court is of the opinion that the proposed amendment is very much necessary in the interest of justice to determine the real crux of the issue. But if the application is not allowed, the plaintiff would be put to irreparable loss and injuries. On the other hand the delay in filing the application could be compensated by imposing costs to the plaintiff. The proposed amendment neither changes



the cause of action nor changes the nature of the suit. In view of the above reasons, this court inclined to allow the application. Accordingly point No.1 is answered in the ***Affirmative.***

10. Point No.2 :- For the above discussed reasons, this Court proceeds to pass the following;

ORDER

The application (IA.No.VI) filed by the plaintiffs U/o.VI Rule 17 of CPC R/w 151 is hereby allowed on costs of Rs.500/-.

The plaintiffs are permitted to amend the plaint as sought in the application.

[Dictated to the stenographer directly on computer and then corrected by me and thereafter pronounced in the open court on this the **14th day of October, 2025**]

Sd/-
(**Sujatha A.B.)**
Prl. Civil Judge and JMFC.,
Kunigal.