

**IN THE COURT OF THE PRL. CIVIL JUDGE & JMFC., KUNIGAL.****Present:****Smt Sujatha A.B.,** B.A.L., L.L.B.,

Prl Civil Judge & JMFC., Kunigal.

DATED THIS THE 15th DAY OF APRIL 2026**O.S.No. 511/2016**

Plaintiff : Smt. Huchamma
(By Sri.KNS/PNK.,Advocate)

V/s

Defendants : Smt. Nanjamma and another
(D-1 by Sri.C.G.,Advocate
D-2 by Sri.N.S., Advocate)

I.	Provision under which the application is filed	Under Order 6 Rule 17 of CPC
II.	Relief sought for	For amendment of written statement
III.	The date on which the application is filed	24.04.2025
IV.	Number of the application	VIII
V.	The date on which the objections are filed by	03.06.2025
VI.	The date on which the order were passed on the said application	15.04.2026

**RANK OF THE PARTIES ON I.A.No. VIII**

Applicant: Sri. Somashekhar
(SPA holder of Defendant No.1)

V/s

Opponent : Smt. Huchamma
(Plaintiff)

**ORDERS ON APPLICATION (VIII) FILED BY
DEFENDANT U/O. VI RULE XVII OF CPC.,**

This application is filed by SPA holder of the defendant No. 1 under order VI Rule 17 of CPC, praying to amend their written statement by inserting south in the 7th para in 3rd and 6th line by deleting the North in the same and by inserting the name Dasappa in the 7th para 5th line by deleting the name of the Ningaiah.

2. In the annexed with the application the SPA holder of the defendant No.1 has contended that plaintiff has filed the suit for the relief of permanent injunction and plaintiff has given wrong boundaries and defendant at the time of filing the written statement got confused and in the para No.7 he has



described boundaries and said fact came to his knowledge recently and for that reason he is filing the application to correct the said boundaries by allowing the application. Among these grounds he prayed to allow the application.

3. On the other hand, plaintiff has field the statement of objection by denying the contentions and plaintiff stated that suit has reached an advance stage, cross-examination of DW.1 has been completed. The matter is riped for arguments, at this stage the amendment sought is clearly an afterthought and an attempt to prolong the litigation and to fill lacuna that have been exposed during the trial. Plaintiff stated that in written statement he has admitted the certain facts regarding the ownership and extent and schedule of the suit property. However through this amendment she now seeks to contradict her own earlier admission. Such contradictory averments are not permissible under law and should not be entertained by the court. As per settled principle of law once a admission is always



a admission when such being the case, by filing the amendment application to erase the admission in the written statement cannot be maintainable the amendments that change the fundamental nature of the defence or introduce new inconsistent pleas are not to be allowed. The amendment sought introduces new facts and a substantially different defence. Which was never pleaded earlier. Such a change would alter the nature of the defense and prejudice the plaintiff, who has already led her evidence based on the original pleadings.

4. The defendant has failed to demonstrate due diligence as required under the proviso to order 6 rule 17 CPC. The Hon'ble Supreme court in Vidyabai & Ors Vs. Padmalatha & Anr., (2009) 2 SCC 409, has held "No application for amendment for amendment shall be allowed after the trial has commenced, unless the court comes to the conclusion that inspite of due diligence, the party could not have raised the matter before the commencement of trial". In Revajeetu Builders & Developers



V/s. Narayanaswamy & sons (2009) 10 SCC 84, the Hon'ble Apex court laid down " Amendment which are malafide or cause of serious prejudice to the other side are intended to fill up lacunae after commencement of trial, should be disallowed. Similarly in Baldev Singh & Ors V.s. Manohar Singh & Anr., (2006) 6 SCC 498 it was held that "Once the trial has commenced and evidence has been recorded and amendment introducing a new case should not permitted. Among these grounds she prayed to reject the application.

5. Heard arguments.

6. In light of the above contentions, the infra points that would arise for my consideration.

1. Whether the present application as sought by the defendant No.1 is just and necessary for the proper adjudication of the matter involved in the suit?

2. What order?

7. My findings on the above points are as under:

Point No.1: In the ***Negative***

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



REASONS

8. **Point No.1:** The plaintiff has filed this suit for the relief of permanent injunction. In this case both parties have completed their evidence and when case was posted for arguments. At that time the plaintiff has filed application to recall stage for further chief examination and to produce documents and when case was posted for objection at that time the present defendant No.1 has come up with this application for amendment of written statement. On perusal of proposed amendment the defendant No.1 intended to change the boundary of the southern side and he claimed that at the time of given information of written statement by confusing direction he has given wrong direction to his property and same was noticed by him recently. It is noted that in this case the defendant has filed written statement on 23.01.2017 and his evidence was completed on 21.02.2025 which is after lapse of 7 years, the defendant No.1 has come with this application. In



that situation if the proposed amendment left out and they could have filed said application then and there itself but after completion of cross-examination of DW.1, he has submitted no further defendant evidence and thereafter case was posted for arguments then at that time he has filed above application at the fag end of the case.

9. It is trite that there is no bar to file applications for amendment of the pleadings, at any stage of proceedings and even after commencing of the trial, the party as to show that, inspite of due diligence he could not file amendment application in time. It is pertinent to note that Proviso Clause could not permit to the party to file amendment application after commencement of trial. At this juncture, I would like to rely upon the proviso Clause I of **Order VI Rule 17 of C.P.C** which reads thus:

“Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that inspite of due



diligence, the party could not have raised the matter before the commencement of trial.”

On plain reading of the said Proviso Clause I clarified that no amendment should be allowed after trial is commenced. Admittedly, case on hand the stage for arguments at that time this present application for amendment of written statement filed. On careful perusal of the reasons sworn in the affidavit, the applicant/defendant has not shown the proper reasons to present this application. The party who approached the Court should be diligent and it is his bounden duty to say about all the contentions of the case they alleged. The present suit is filed in the year 2016 and above application is filed after lapse of 8½ years and the present application is filed at the belated stage. Moreover defendants have not raised any objections in respect of the proposed amendment at the earliest. Further there is no proper explanation from defendant to seek proposed



amendment at belated stage that too after filing of chief examination. Hence the defendants have not made out valid grounds to allow the above application after commencement of trial. The reasons urged in the sworn affidavit by the applicant is not satisfactory. Accordingly, this court has answered Point No. 1 in the **Negative**.

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

ORDER

Application (IA No.VIII) filed by the
defendant No.1 under order VI Rule 17 of
C.P.C. is hereby rejected.

No order as to cost.

[Dictated to the stenographer directly on computer and then corrected by me and thereafter pronounced in the open court on this the **15th day of April, 2026.**]

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