

**IN THE COURT OF THE SENIOR CIVIL JUDGE AND
J.M.F.C., AT PAVAGADA**

Present

**Sri. MADESHA V.
B.A.L.,LLB.,
Senior Civil Judge and J.M.F.C.,
Pavagada.**

Dated 7th Day of July 2026

O.S.NO.97/2023

Plaintiff : T.N.Sanjeevarayappa
V/s

Defendants : Thimmaiah and another

I.A.No.VI

Applicant/Defendant No.2 : Narappa
V/s

Opponent/Plaintiff : T.N.Sanjeevarayappa

i.	Provision under which the application is filed	Under order 6 Rule 17 of CPC
ii.	Relief sought for	Amendment of written statement
iii.	The date on which the application is filed	11-06-2026
iv.	Number of the application	06
v.	The date on which the objection filed by opponents	16-06-2026
vi.	The date on which the orders were passed on the said application	07-07-2026

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ORDER ON I.A No.VI

This is an application filed by the applicant / defendant No.2 under Order 6 Rule 17 of C.P.C I.A. No.VI seeking permission for amendment of written statement.

2. The defendant No.2 has filed an affidavit in support of the above application and stated that, he is the defendant No.2 in the above case. The plaintiff has filed above suit for declaration and permanent injunction against defendants in respect of suit schedule property. He has sought to treat the written statement averments as part and parcel of the affidavit to avoid repetition of facts. At the time of filing the written statement by mistake and by oversight wrongly typed some wrong contents as mentioned in the proposed amendment. He has already cross-examined the plaintiff in detail in this regard. The proposed amendment which is mentioned in the application will not change the nature of the suit and cause of action. The proposed amendment is necessary and proper for adjudication of the matter effectively. Due to oversight, the said proposed amendment was not inserted in his written statement and it is because of typographical mistake. The proposed amendment sought in the application will not change in altogether in any way or any defense taken in the suit itself. If the proposed amendment sought in the application is not allowed, it leads to multiplicity of the proceedings. The failure on the part of defendants in carrying amendment at the earliest is for bonafide one and not intentional. If the application is allowed no

hardship and loss would be caused to the defendants. On the other hand, if the application is rejected, it would cause injustice and loss to him. On the said ground, he prayed to allow the application.

3. To resist the application, the plaintiff filed objection and contended that, the application is not maintainable in law and facts, the proposed amendment is highly belated one in the eye of law. The plaintiff has already led his evidence and his chief-examination as well as cross-examination have been completed. The defendants have utterly failed to satisfy the mandatory requirement of proving that, in spite of due diligence they could not have raised the proposed pleadings before commencement of trial. Except making a bald statement that, there was a mistake and oversight while filing the written statement, no explanation whatsoever is offered in the affidavit. They could not detect at the time of filing written statement. The proposed amendment seeks to materially alter the genealogy, succession, source of title and foundation of the defence case. Such amendment goes to the route of the matter and substantially changes the stand already taken by the defendants in the written statement. In the original written statement, the defendants have specifically pleaded a particular genealogy and succession. By way of the proposed amendment, they now seek to substitute material facts relating to the lineage of the parties and the manner in which the suit schedule property developed upon them. The defendants have already cross-examined the plaintiff in detail based on the

pleadings contained in the original written statement. The present application is filed only after completion of plaintiff's evidence with an intention to overcome admissions, deficiencies and weaknesses in their defence that surfaced during trial. The application is nothing but an attempt to fill up lacunae in the case of the defendants. The application filed only to drag on the proceedings. The application of the defendant No.2 is baseless one and not supported by any genuine and material documents. On the said grounds, plaintiff prayed to reject the application with cost.

4. I have heard the arguments of both the parties and perused the application and record.

5. The following points would arise for my consideration:

1. Whether the applicant / defendant No.2 has made out grounds for allowing the application under Order 6 Rule 17 of CPC on IA.No.VI ?

2. What order?

6. My findings to the above said points are;

Point No.1: In the Affirmative

Point No.2: As per the final order

for the following;

REASONS

7. **Point No.1:-** The plaintiff has filed above suit for declaration and permanent injunction against defendants in respect of suit schedule property. It is contended that, at the time of filing the written statement by mistake and by oversight wrongly typed some wrong contents as mentioned in the proposed amendment. He has already cross-examined the plaintiff in detail in this regard. The proposed amendment which is mentioned in the application will not change the nature of the suit and cause of action. Hence, the mistake is bonafide one and not intentional one. The proposed amendment is very much necessary to prove his defense. The amendment will not change the nature of the suit.

8. At this juncture, I have gone through the provision of order 6 rule 17 of C.P.C. As per order 6 rule 17 of C.P.C the amendment can be allowed at any stage of the proceedings if the court finds that, the amendment is necessary for the purpose of determining the real question in controversy in between the parties. The Hon'ble Supreme Court of India in ***AIR 2006 SC 1647,(2006) 4 SCC 385*** has setup guidelines for entertaining application for amendment and explained the object of order 6 rule 17 of CPC that, the court should hold an enquiry and tried the suit/case on merits and consequently should allow all the amendments that may be necessary for determining the real question in controversy between the parties provided it does not cause injustice or prejudice to the

other side, the rule of amendment is indeed a rule of justice, enquiry and good conscience. The power of granting amendment should be exercised in the larger interest of doing full and complete justice to the parties before the court.

9. In the present case on hand, the plaintiff contended that, the proposed amendment will alter the oral defence taken by the plaintiff. In fact, in this case the plaintiff evidence is already closed and already posted to defendants evidence. The defendants have already cross-examined the plaintiff in detail based on the pleadings contained in the original written statement. The present application is filed only after completion of plaintiff's evidence with an intention to overcome admissions, deficiencies and weaknesses in their defence that surfaced during trial. The application is nothing but an attempt to fill up lacunae in the case of the defendants.

10. In order to ascertain the contentions and facts sought to be amended, it is necessary to provide fair opportunities to the parties to establish their respective contentions. Mere permitting the defendant No.2 to amend the written statement as shown in the application does not take away the right of plaintiff. Therefore, in view of the law laid down by the Hon'ble Supreme Court and by considering the facts and circumstances of the present case, this court is of the considered opinion that, the proposed amendment is necessary for resolving the real controversy between the parties.

Therefore, in the interest of justice and disposal of case on merits, I am of the opinion that, the amendment application is deserves to be allowed.

11. On perusal of record it is found that, there is a delay in filing the application. The present suit is of the year 2023 and the defendant filed written statement on 06-12-2023. Since, there is a delay in filing the present application. Hence, this court opines that, it is necessary to pass an order requiring the defendants to pay to the other parties such cost, as would be reasonably sufficient to reimburse in respect of expenses incurred by him in attending the court on the earlier dates. Hence, it is necessary to impose suitable cost for causing delay in filing the application. Further, the defendant No.2 has made out good grounds to allow the application. Accordingly point No.1 answered in the **Affirmative**.

12. **Point No.2:-** In view of my foregoing reasons while answering the above point, I proceed to pass the following;

ORDER

I.A No.VI filed by the defendant No.2 U/o VI Rule 17 of C.P.C is hereby allowed on cost of Rs.1,000/-.

Subject to cost, the defendant No.2 is hereby permitted to carryout the amendment as prayed in the above I.A.

For amendment and for furnishing amended
copy of written statement by: 15-07-2026.

(Dictated to the Stenographer directly on him computer, and
corrected and pronounced in the open court on this **7th Day of July 2026**).

Sd/-
(MADESHA V.)
Senior Civil Judge & JMFC
Pavagada.