



Dated 29th day of July 2025

O.S. No.285/2013

(By Smt/Sri. H.N. Advocate)

Defendants : Muttaiah S/o Late Chikkanna,
Aged about 62 years,
R/at malige hatti Village,
Bukkapattana Hobli,
Sira Taluk. And others.

(By Sri. S.B., Advocate for D.1 to 6)

I.A. No.XIX

Applicants : Muttaiah & others..... D.No.1 to 5

-V/S-

Opponent : Vishwanatha. Plaintiff

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ORDER ON I.A.No.XIX FILED BY APPLICANTS UNDER
ORDER 6 RULE 17 r/w Sec.151 OF C.P.C

This is an application filed by the applicants praying this court to permit them to amend the written statement as sought for in the application.

The proposed amendment sought is ;

In Written statement after para No.14 and “para No.14(a) THAT, the defendants No.1 to 5 submit suit of the plaintiff is bad of mis-joinder and non-joinder of necessary parties, therefore the suit of the plaintiff is not maintainable”

2. In the affidavit annexed to the application, applicants averred that the present suit is filed by the plaintiff against the defendants for the relief of Declaration and permanent injunction. The applicants further submitted that while filing written statement some defence was crept. Despite the excise of due diligence the applicants could not add the same. In order to meet the ends of justice, the rectification of same is required through the amendment of written statement. If the application is rejected, the defendants would be put to irreparable loss and hardship. On the other hand no prejudice would be caused to the other side. Hence, prays to



allow the application.

3. On the other hand, Plaintiff filed detail objection stating that the application is not maintainable and is liable to be rejected. The applicants have sworn false affidavit, have not made out any valid or tenable grounds to allow the same. If the proposed amendment is allowed, it will change the cause of action and will introduce all together a new case and it would take away the right accrued to the plaintiff. The I.A does not disclose due diligence on the part of the defendants. Amongst these grounds prayed to reject the application.

4. Heard, perused the records placed before the court.

5. The points that arise for my consideration are as under ;

1) Whether the applicants/Defendants
have made out sufficient grounds to
allow the application ?

2) What order ?

6. My findings to the above points are as under :

Point No.1 : In the Affirmative

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



REASONS

7. POINT No.1: It is pertinent to note that this suit is filed by the plaintiff against defendants for the relief of Declaration and permanent injunction in respect of the suit schedule property.

8. The present suit has been filed in the year 2013 i.e., on 01.08.2013. The contesting defendants have filed their written statement on 11.07.2015. On the basis of pleadings, issues are framed on 22.03.2016. Presently, the stage of the suit is for defendants evidence. The contention of the plaintiff is that, if the amendment is allowed, the nature of suit will be changed, it will change the cause of action and will introduce all together a new case and would take away the right accrued to the Plaintiff. Further it is also contended by the plaintiff that, the defendants have not given any reason as to due diligence. Applicants contended that this amendment will not change the nature of the suit and will not take away the rights accrued to the plaintiff as contended in their objection. Further, the applicants have sworn in the affidavit that after filing the written statement they have got some documents regarding suit schedule property and this time it is very much necessary to amend the written statement.



9. For the sake of convenience, provision of Order VI Rule 17 is reproduced herewith:

“17. Amendment of pleadings.—The court may at any stage of the proceedings allow either party to alter or amend his pleading in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties:

Provided that no application for amendment shall be allowed after the trial has commenced, unless the court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.”

10. The Hon’ble Apex Court in Abdul Rehman Vs Mohd. Ruldu reported in (2012) 9 SCALE 582, held that;

“If application for amendment of plaint is filed after commencement of trial it has to be shown that in spite of due diligence, it could not have been sought earlier, the court should try the merits of the case that come before them and should, consequently, allow all 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”.

11. In view of the aforesaid, it can be said that the amendment of pleadings cannot be claimed by the party as a matter of right nor can be denied by the Court arbitrarily. However, the discretion to be exercised by the Court is guided by the principles mentioned and depends on the facts and circumstances of each case. As such Order 6 Rule 17 is intended for promoting the ends of justice and not for defeating them, therefore grant of amendment is the rule and refusal is the exception.

12. Hon'ble Supreme Court in the case of **Usha Balashaheb Swami and Ors. v. Kiran Appaso Swami and Ors (AIR 2006 SC 1663)** has held 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.”

13. At this stage it is important to discuss about the amendment brought to Code of Civil Procedure, 1908 in the year 2002, Order VI Rule 17 of Code of Civil Procedure puts an embargo on the power of the court to grant leave to parties to amend the pleadings at any stage of the proceedings. The said provision introduces the rider that once trial has commenced, unless the party who wants to amend his/her/their pleadings, has to demonstrate that, in spite of exercising due diligence, application for amendment could not be filed at the earliest possibility opportunity, then only application can be entertained.

14. It is well settled law that criteria to decide the application for amendment of pleadings are subject to certain conditions namely:

1. When the nature of suit change by permitting amendment;
2. When amendment would result in introducing new cause



of action and intending to prejudice other party;

3. When allowing amendment application, defeats law of limitation.

15. The Hon'ble Supreme Court in **REVAJEETU BUILDERS AND DEVELOPERS V/S NAGARAJ SWAMY and OTHERS - (2009) 10 SCC 84** has laid down the principles regarding consideration of amendment application as under: 6.

On critically analyzing both the English and Indian cases, some basic principles emerge which ought to be taken into consideration while allowing or rejecting the application for amendment. Whether the amendment sought is imperative for proper and effective adjudication of the case; whether the application for amendment is bonafide or malafide; the amendment should not cause such prejudice to the other side which cannot be compensated adequately in terms of money; refusing amendment would in fact lead to injustice or lead to multiple litigation;



whether the proposed amendment constitutionally or fundamentally changes the nature and character of the case; and As a general rule, the court should decline amendments if a fresh suit on the amended claims would be barred by limitation on the date of application. These are some of the important factors which may be kept in mind while dealing with application filed under Order 6 rule 17. These are only illustrative and not exhaustive.”

16. On having glance over above referred provision of law, it becomes clear that, the court can grant leave to parties to amend their pleadings at any stage of proceedings. This power is subject to condition that, once trial has begun, unless party seeking amendment of the pleadings establishes that, in-spite of exercising due diligence, he could not file application for amendment prior to commencement of trial, then said provision puts an embargo on the fetters of the court to grant leave for amendment of pleadings. The present application is to be considered in the light of the statutory mandate contained under Order VI Rule 17 of Code of Civil



Procedure, 1908.

17. The plaintiff counsel at the time of arguments on I.A relied on the authority **AIR 2007(SC) 806, (2008)17 SCR 505**. On carefully perusal of the above said authorities with due respect to the said authority the facts and circumstance of present case are different one.

18. Adverting to the facts of the present case, the applicants intend to amend the written statement of the suit schedule property. The defendants intending to amend in their written statement with regard to the non joinder of necessary parties. If the same is not allowed, it will be hurdle to better adjudication. At the earlier the proposed amendment was crept. At this stage, it is necessary to amend the written statement. The parties have every right to amend their pleadings. As per their pleadings they have to adduce evidence. However, the other parties have rights to cross examine them on their pleadings. If the application is allowed, no harm will be caused to the plaintiff. At the same time, if the application is not allowed, the rights of the defendants to prove their case will be curtile. Accordingly to determine the question it is necessary to allow this amendment application.



Hence I answer **Point No. 1 in Affirmative.**

19. POINT No.2 : In view of the discussion made on Point No.1, I proceed to pass the following :

ORDER

I.A.No.XIX filed by the applicants under Order VI Rule 17 r/w Sec.151 of CPC is hereby allowed on cost of Rs.3,000/-.

Defendants are hereby directed to amend the written statement within 14 days from the date of order.

(Dictated to the Typist directly on Computer, corrected and then pronounced in open court on this 29th day of July 2025)

Sd/-
(NARASIMHAMURTHY.A)
Prl. Civil Judge & JMFC,
Sira.