

Presented on : 22-01-2014  
Registered on : 24-01-2014  
Decided on : --  
Duration :

**IN THE COURT OF III ADDL. CIVIL JUDGE & JMFC  
AT BELGAUM  
(PRESENTED OVER BY SMT. LAKSHMI G M)**

**O.S./0000135/2014**

**APPELLANTS :**

1. Miss. Kamala D/o. Malakappa Patil  
1307, Gyani Colony, Station Road, Bijapur Repted through her Irrevocable General  
Power of Attorney Holder Shri. Muzaffar Musharif S/o. Mehamood Bagewadi, Age 47  
yrs, Occ Business, R/o. H.No. 1033/3, Kalaigar Galli, Fort Road, Belgaum.

**VERSUS**

**RESPONDENTS :**

1. Shri. Muzammil S/o. Mohammedali Alwakdar  
H.NO. 4073, Kakatives Galli, Belgaum.  
2. Shri. Mohammedumar S/o. Mohammedusman Shaikh  
Mannurkar gall, Belgaum.

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A.A.SUNALKAR, Advocate for the appellant.  
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**ORDERS ON I.A.No.III**

Advocate for plaintiff has filed application Under Order 6 Rule 17 of C.P.C. along with  
affidavit.

It is averred in the affidavit that, the present suit is filed for Mandatory Injunction and  
Permanent Injunction. The plaintiff further averred that, while describing the suit property, he has  
mentioned the boundaries of suit property in the plaint as per the boundaries mentioned in the

registered Sale Deed dated 18/4/1990. During the pendency of the suit he has obtained certified copies of approved layout plan of R.S.No.54/2 of Kangrali B.K. village and when he perused the same and compared the boundaries of Plot No.33 which is purchased by the plaintiff and came to know that, the boundaries mentioned in the Sale Deed are not tallying with the boundaries found in the approved layout plan and he approached the Asadkhan Co-op. Housing Society Ltd., and they admitted about the mistake of boundaries of Plot No.33 mentioned in the Sale Deed and immediately executed deed of rectification dated 20/11/2014 under Reg.No.BEL-1-10409-2014-15 by mentioning the correct boundaries of Plot No.33 in R.S.No54/2 (New R.S.No54/2A). Hence, filed this application and prayed to allow the same.

The defendants have filed objections to the said application and denied the averments made in the affidavit. The defendants further submitted that, the plaintiff has failed to get Temporary Injunction order on hearing of the I.A.I. realized that, nothing there to commence the trial with the existing plaint has come up with the present application. So also the plaintiff wants to change the entire situation and location of the property which has been claimed by him which is not permissible in law. The defendants further submits that, the plaintiff in collusion of the society has created false layout and the alleged rectification of deed after lapse of more than 24 years without any explanation and filed the present application, which amounts to change the cause of action and the relief claimed in respect of the property held by these defendants. So also submitted that, the amendment will change the entire cause of action and the claim of the plaintiff and the alleged layout plan produced along with the rectification deed is created only to lay a false claim over the property. Hence, prayed to reject the application.

Heard by both side.

Perused the application & the documents furnished by the plaintiff. The reasons assigned by the plaintiff are satisfactory and further the proposed amendment would not alter the cause of action nor it would cause inconsistency to the plaintiff or prejudice to the defendants. Further the plaintiff has not yet commenced the evidence. Hence, at this stage the application filed by the plaintiff for amendment of boundaries are just and necessary to determine the real question in controversy between parties. The citations furnished by plaintiff are held proper and applicable to this case. Further if the said application is allowed, no hardship is likely to cause to the defendants. But in contra the plaintiff will be put in great hardship and the filing of suit itself will vitiate. Hence, I proceed to pass the following,

:ORDER:

I.A.No.III filed by plaintiff is hereby allowed.

The plaintiff is hereby permitted to amend the plaint as per the proposed amendment in the plaint.

Sd/-  
(Smt. LAKSHMI G.M.)  
III Addl. Civil Judge & JMFC, Belagavi.