

KABG040011932021



24.10.2024

O.S.No.697/2021

**ORDERS ON I.A.NO.II FILED U/O.VI RULE
17 R/W. SEC.151 OF C.P.C.**

Counsel for plaintiff has filed application U/O.VI Rule 17 R/w. Sec.151 of C.P.C., seeking the proposed amendment to the plaint i.e., to delete prayer 'A' in the prayer column of the plaint which is regarding the relief of declaration to declare that the plaintiff's society has absolute right, title and interest in the suit property'.

2. In the affidavit annexed to the application, the plaintiff has stated that on enquiry with the Sub-Registrar, Belagavi by filing application under R.T.I. Act on 22.01.2021, the plaintiff came to know that there is no registered document which is executed by plaintiff's society in the year 1987 in favour of defendant No.1. Further that the

defendants themselves have admitted in the course of their written statement that the plaintiff society is erstwhile owner of suit property, hence there is no necessity to seek the relief of declaration as sought in prayer 'A' of the prayer column in the plaint. On these grounds, the plaintiff has prayed to allow the present application.

3. Per contra, the defendants have not filed objection to the said application.

4. Heard both sides.

5. Perused application and objection.

6. On the basis of aforesaid application, the following points arise for my consideration:

i) Whether the plaintiff/applicant has made out grounds to allow the application?

ii) What order?

7. My answer to above points are as under:

Point No.1: In the Affirmative

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

REASONS

8. Point No.1 : The present suit is filed seeking the relief of declaration, permanent injunction and mandatory injunction and the present application is filed seeking the proposed amendment to the plaint as mentioned above.

9. The plaintiff has filed the present suit in the year 2021 and now when the case stood posted for hearing the plaintiff on preliminary issues, the plaintiff has filed the present application and the plaintiff is intending to delete the prayer of declaration of title over suit property by way of proposed amendment. The defendants have not submitted their objections to the said application. The plaintiff has stated in the affidavit annexed to the application that the defendants have admitted in the course of their written statement about the title of plaintiff society over suit property and moreover on enquiry made by plaintiff it is found that there is no such document registered in favour of defendant No.1 by which the plaintiff society could have executed registered sale deed in

the year 1987. As such, the plaintiff society is intending to delete the relief of declaration of title sought for as per prayer 'A' of the prayer column in the plaint. It is for the plaintiff to choose the relief which he is intending to claim against the defendants and hence the proposed amendment does not cause any prejudice to the other side. As such, the proposed amendment deserves to be allowed. Hence, this Court deems it fit to allow the present application. Accordingly, I answer **Point No.1 in the Affirmative.**

10. Point No.2 : In view of forgoing discussion, I proceeds to pass the following:

ORDER

The application i.e.,I.A.No.II filed by plaintiff U/O.VI Rule 17 R/w. Sec.151 of C.P.C. is hereby allowed.

The plaintiff is directed to carry out amendment and file amended plaint by 05.11.2024.

**Prl. Civil Judge and J.M.F.C,
Belagavi.**