

KABG610014432024

**IN THE COURT OF CIVIL JUDGE AND JMFC, HUKKERI****Dated this the 03rd day of March, 2025****PRESENT:-Sri.Nemachandra, L.L.M.,
C/c. Civil Judge and J.M.F.C.,
Hukkeri.****O.S.No.127/2024****Plaintiff** : Jamia Rashidia Education Charitable
Trust, Pachapur.**Vs.****Defendants** : Shri. Rafiq S/o. Babalal Bagban
and others.**ORDER ON I.A.No.V****Applicants** : Jamia Rashidia Education Charitable
Trust, Pachapur.**Vs.****Opponents** : Shri. Rafiq S/o. Babalal Bagban
and others.

The provision under which application is filed	:	O.VI R.17 r/w. Section 151 of C.P.C.
Relief Sought for	:	Amendment of plaint
The date on which application is filed	:	02.12.2024
Number of application	:	05
The date on which objections are filed by opponents	:	17.12.2024
The date on which Orders are passed on the application	:	03.03.2025.

**ORDERS ON APPLICATION FILED UNDER
ORDER VI RULE 17 r/w. Section 151 OF C.P.C.**

The present application is filed by the applicant/plaintiff under Order VI Rule 17 r/w. Section 151 of C.P.C with a prayer to permit to carry out amendment of plaint and to mention the name of defendant No.4 as “Shanul instead of Shabbir”.

2. In the affidavit filed along with the application, it is submitted that, this suit is filed for the relief of permanent injunction against the defendants. It is further submitted that the defendant No.1 to 4 are sons of Babulal Bagaban and are the owners of RS No.130/1, 130/4, 130/5 and 130/6 and are

obstructing for the peaceful possession of suit property. It is further submitted that in the cause title of the plaint due to oversight by typographical mistake, the name of defendant No.4 is mentioned as Shabbir S/o Babalal Bagban instead of Shanul Babalal Bagban. It is just and necessary to correct the same. With all these contentions, prays to allow the application.

3. On the other hand, defendants No.1 to 3 have filed objections to the said application and denied all the contentions of plaintiff and contended that, the application filed by the plaintiff is not maintainable under the eye of law and that such applications are maintainable only after commencement of trial. With all these contentions, prays to dismiss the application.

4. Heard both sides. Perused the materials on record.

5. The points that arise for consideration of this court are as follows:

1. Whether the plaintiff has made out sufficient grounds to allow the application filed under Order VI Rule 17 r/w. Section 151 of C.P.C.?

2. What order?

6. For the reasons stated below, this Court answers to the above points as follows:

Point No.1: In the affirmative

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

:: REASONS ::

7. Reasons for point No.1: The present application is filed by the plaintiff to amend the cause title of plaint to change the name of defendant No.4 as “Shanul instead of Shabbir”.

8. The present suit is filed by the plaintiff for the relief of permanent injunction against the defendants. Now the plaintiff filed this application only to correct name of defendant No.4 as Shanul instead of Shabbir. The cause title shows that, the name of defendant No.3 and 4 are mentioned as Shabbir and that, two defendants cannot have same name.

Further the RTC pertaining to Sy No. 130/5 shows that name of Shanul. Considering the contention taken by the plaintiff and considering that the name of defendant No.3 and 4 are same, this Court holds that, it is only a typographical mistake, that the name of defendant No.4 is wrongly mentioned as Shabbir instead of Shanul. Hence, considering the contention of plaintiff and the name of owner in respect of Sy No. 130/5 and that, as the present application is filed only to rectify the mistake in mentioning the name, this court is of the view that said amendment is necessary for proper adjudication of the case and on the other hand no prejudice will be caused to the other side. Further if the application is dismissed, plaintiff will not be able to get the relief in the present case and the purpose of filing the present suit will defeated. Hence considering the pleading of the plaint and considering that by allowing the present application cause of action and nature of suit will not change and no hardship will be caused to other side, plaintiff has made out sufficient grounds to allow the application.

9. Further in respect of contention of defendants that the application is not maintainable under eye of law, defendants have not specifically pleaded about the law under which the present application is not maintainable. As stated above the present application is only filed to rectify the typographical mistake in the cause title and that the said amendment will not change any facts of the present case, and for the reasons stated above, this court holds that plaintiff has made out sufficient grounds to allow the application and that the said amendment is necessary for the purpose of adjudicating the present case on merits. **Accordingly, the point No.1 is answered in affirmative.**

10. **Reasons for point No.2:-** For the reasons stated above, this Court proceeds to pass the following:

:: ORDER ::

The I.A.No.V filed by the plaintiff under Order VI Rule 17 r/w. Section 151 of C.P.C is hereby allowed with costs of Rs.300/-.

**The plaintiff is hereby directed to
carry out amendment and file
amendment plaint on or before
22.04.2025.**

(Dictated to the Stenographer directly on computer, typed by her and
the transcript revised and corrected by me and pronounced in the open
Court, on this 03rd day of March, 2025)

03.03.2025.
(SHRI. NEMACHANDRA)
C/c. Civil Judge & J.M.F.C.,
Hukkeri.