



IN THE COURT OF THE I ADDITIONAL SENIOR CIVIL JUDGE, GOKAK

Present: K.M. SHANKAR, B.A.L., LL.B.,  
I Addl. Senior Civil Judge, Gokak

Dated, this the 26<sup>th</sup> day of October, 2023

O.S.No.474/2022

Plaintiff: Siddangouda Shivagouda Patil,  
Age: 07 years, Occ: Nil,  
Since minor R/by his father  
Shivanand Siddappa Patil,  
Age: 35 years, Occ: Agriculture,  
R/o: Sunadholi village, Mudalagi taluk,  
Belagavi district.

(By Sri.AKK., Advocate)

V/s

Defendant: Laxman Gurappa Shekki,  
Age: 33 years, Occ: Agriculture,  
R/o: Hunashyal P.G., Village,  
Mudalagi taluk, Belagavi district.

(R/By Sri.BSK., Adv.)

I.A. No.8

Applicant : Shivanand  
V/s

Opponent : Laxman

ORDERS ON IA No.8 DATED 25.03.2023 FILED UNDER ORDER 6  
RULE 17 READ WITH SECTION 151 OF CPC

Next friend of plaintiff has made the instant application seeking permission to amend the plaint by inserting the paragraph 6(a) as mentioned in the application on the grounds that he was appointed as a minor guardian of plaintiff and it is necessitated him to insert para No.6(a). The amendment will not change the nature of the suit. There is no delay in filing the application.

2. In the objections dated 06.07.2023, the application is resisted by the defendant contending that the averments made therein are false. The proposed amendment will change the nature of the suit and it will affect the defense of defendant. After lapse of one year the amendment application is filed. Defendant has filed his written statement long ago. The delay in filing of the application is not explained properly. The minor guardian of plaintiff by taking undue advantage of order of the court has filed the application. In fact, the applicant is not the next friend or guardian of minor plaintiff and the suit property is not in his possession. Accordingly, it is prayed for dismissal of the application with cost.

3. I have heard the arguments of the learned counsels appearing for the parties and perused the material on record.

4. Points that arise for consideration of the court are;

1. Whether the application deserves to be allowed?

2. What Order?

5. Findings of the court on the above points are as under:

Point No.1: in the affirmative and

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

#### R E A S O N S

6. Point No.1: as could be seen from the material on record, at the time of filing of the suit the plaintiff being a minor was represented by his mother and vide orders dated 06.01.2023, the applicant/father of plaintiff was substituted in the place of his mother as next friend and natural guardian. Now, plaintiff intends to insert a fact that he was under the care and custody of his mother at the time of filing of the suit and thereafter she is under the clutches of defendant and his wife and left the company of plaintiff and possession of the suit property. Now, his father is looking after his welfare and is in possession of the suit property on behalf of the plaintiff.

7. The said substitution was allowed on the grounds narrated in the preceding paragraph and therefore the proposed amendment required to be allowed in order to adjudicate the suit at hand, and it neither changes the nature of the suit nor brings a new of cause action nor takes away the defense taken up by the defendant nor causes any sort of hardship or injury to him. Under these circumstances, the application deserves to be allowed and accordingly objections raised by the defendant do not hold water and cannot be accepted and the point No.1 is answered in the affirmative.

8. Point No.2; in view of the findings arrived on the point No.1, I proceed to pass the following:

O R D E R

The IA.No.8 filed Under Order 6 Rule  
17 R/W/S 151 of CPC, is hereby allowed.

There shall be no order as to cost.

(Dictated to the stenographer on computer, typed by  
him, revised, corrected and then pronounced by me in the open  
Court on this the 26<sup>th</sup> day of October, 2023)

Sd/-  
(K.M.SHANKAR)  
I Addl. Senior Civil Judge, Gokak