

KABI600000342021



**IN THE COURT OF THE CIVIL JUDGE & JMFC., AT
SANDUR**

PRESENT: *Smt. Shashikala.G, B.A., LLB.,
Civil Judge & JMFC, Sandur.*

Dated this 11th day of January 2022

O.S.No.02/2021

PLAINTIFF	: D. Akshatha (By Sri RV Advocate.)
// Vs //	
DEFENDANTS	: Agasara Honnurappa and another (By Sri AVK Advocate.)
<u>I.A.No.IV</u>	
PETITIONER	: D. Akshatha
// Vs //	
RESPONDENTS	: Agasara Honnurappa and another

**ORDER ON I.A.NO.IV FILED UNDER ORDER 6 RULE 17
R/W SEC., 151 OF CPC**

The applicant/ Plaintiff has filed this application

U/o VI Rule 17 R/w Sec.,151 of CPC Seeking to

amend the plaint as shown in the schedule to the petition, in the interest of justice.

2. In support of IA, plaintiff has sworn to an affidavit and stated that, the above suit against the defendants for declaration and for mandatory injunction and for permanent injunction . After filling the suit, the defendant appeared and filed their written statement and objections. While verifying the plaint, she came to know there is some mistakes i.e., typographical mistakes in the plaint. Hence, it is necessary to amend the plaint as shown in the schedule to petition. The proposed amendment will not change the nature of the suit as it is matter in dispute and real controversy between the parties. If this application is allowed, no harm or prejudice would be caused to the other side. On the other hand, if this application is not allowed, she will be put to great hardship and injury. Hence, prayed to allow the application.

3. To the application, defendant has filed objection and contended that, the petition is false, not correct and vexatious and not maintainable under law. The defendant have already filed the written statement already in this case. For only harassing to the defendants and fillup the lacuna only who filed this petition. On this count alone this petition is liable to be dismiss. If this court allows this petition, the nature of the suit will change and who is not paid for that much of court fee. So, on this count alone also, this petition is liable to be dismiss. If this petition is not allowed, there is no hardship to the other side. Hence, prayed to dismiss the application.

4. Heard on both sides and perused the material available on record.

5. The following points that arise for consideration of this court are.

- (1) Whether the applicant/plaintiff has made out sufficient grounds to allow

the I.A.No.IV filed under Order VI
Rule 17 R/w Sec., 151 of CPC?

(2) What order?

6. My answer to the above points are as
under

POINT NO.1 : In the ***Affirmative.***

POINT NO.2 : As per Final order
For the following'

R E A S O N S

7. **POINT NO.1:** Admittedly the suit of the plaintiff is for declaration, mandatory injunction and permanent injunction. When the case is posted for objection on interim application No. III, plaintiff has filed this application and sought for amend the plaint and inserting prayer in the plaint by way of amendment. It is contended by the plaintiff that the amendment is required. Defendants by filing the objection has denied the contents of affidavit as false.

8. By proposed amendment plaintiff wants to amend the plaint and insert prayer in the plaint. The case is at pre- trial stage and it is settled principle of

law that amendment application is to be construed liberally is it does not change nature of the suit. Moreover anything pleaded by the plaintiff and denied by defendant, the burden lies with plaintiff to prove it.

9. At this juncture, the proposed amendment does not change cause of action. If the amendment is allowed the defendants is not going to be prejudiced in this case, as they have opportunity to prove their case by leading cogent evidence. The proposed amendment is necessary to determine real question in controversy between the parties and to avoid multiplicity of proceedings. **Hence, I answer Point No.1 in the Affirmative.**

10. **Point No.2:-** In the light of above discussion I proceed to pass the following;

ORDER

*I.A.No.IV filed U/o VI Rule 17 R/w
Sec., 151 of CPC by the
applicant/plaintiff is hereby allowed on
cost of Rs.300/-.*

*Applicant/plaintiff is permitted to
amend the plaint as prayed.*

*To Carry out amendment and to
furnish amended plaint.*

(Dictated to the stenographer, transcribed and computerized by him, corrected and initialed by me and then pronounced in open Court dated this 11th day of January 2022.)

Sd/-
(SHASHIKALA G.)
Civil Judge & J.M.F.C.,
Sandur.