

ORDER ON IA No. II

Plaintiffs have filed the present application under Order VI Rule 17 read with Section 151 of the Code of Civil Procedure, 1908 (Hereinafter referred to as 'CPC.', for brevity) seeking to permit him to carry out the amendment in the plaint as under:

Proposed Amendment

To delete **“Property of Sarojamma”** after the word South by to insert **“Sy. No.134/9 belongs to plaintiffs”** in the plaint schedule.

2. It is averred in the affidavit annexed to the application that due to typographical error southern boundary of the plaint schedule was typed as ‘Property of Sarojamma’ instead of ‘Sy. No.134/9 belongs to plaintiffs’. The error crept in the plaint schedule is bonafide and not intentional. The proposed amendment is just and necessary to decide the suit on merits. No prejudice will be caused to defendant if the application is allowed. With these, prayed to allow the application.

3. Heard and meticulously perused the materials on record.

4. When the matter was posted for orders on IA No.I, at this stage the plaintiffs have filed the present application seeking to permit him to carry out the proposed amendment in the plaint. The Learned Counsel for the plaintiffs submitted that due to oversight and typographical error southern boundary of the plaint schedule property was wrongly typed as 'Property of Sarojamma' instead of 'Sy. No.134/9 belongs to plaintiffs'. The proposed amendment is required to elucidate the matter in dispute. As such, he has prayed to allow the application. Order VI Rule 17 of CPC enables that the Court at any stage of the proceeding to allow either party to alter or amend the pleadings. It also provides that all such amendments shall be made as may be necessary for the purpose of determining the real question in controversy between the parties. Further, it is bounden duty of the plaintiff to show to the Court that in spite of due diligence they could not able to amend the plaint. I have carefully and cautiously gone the amendment sought in the plaint. The proposed amendment is in the form of rectification of boundary. In the case on hand, summons not yet issued to the defendant. Therefore, the proposed amendment is imperative for proper and effective adjudication of the case and the proposed amendment will not change the nature of the suit nor introduce new cause of action. Accordingly, I proceed to pass the following:

ORDER

IA No.II filed by the plaintiffs under Order VI Rule 17 read with Section 151 of C.P.C., is allowed.

Consequently, the plaintiffs are permitted to amend the plaint as prayed in the application.

For amendment of plaint and amended plaint by:

**Prl. Civil Judge & JMFC.,
Hosakote.**