

06.06.2026

Pltf.: By CH Adv.;

Def.: By NLS Adv.;

Order on IA No.III

ORDER ON IA NO.III

The plaintiff has 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 her to carry out the amendment in the plaint as under:

Proposed Amendment

Add the plaint Para No.4(A): The plaintiff is having prefect title, right and interest of the document of Hakkupathra issued by the Thasildar Hosakote Taluk in favour of plaintiff such being the case the Grampanchayath Ittasandra, Nandagudi Hobli, Hosakote Taluk was pleased to mutated the E-Swathu Katha bearing No.150300401400320014 by virtue of afore said Hakkupathra in the favour dated on 02.05.2023 after receiving Kandayam to concerned Gramapanchayath and here with produced the same for kind perusal the same in that circumstances the plaintiff is absolute title owner and peaceful possession of the suit schedule property.

2. It is averred in the affidavit annexed to the application that, due to a lack of information, he could not inform his counsel about the actual facts of the suit schedule property. He recently secured the documents as stated in the proposed amendments and informed the same to his counsel. The proposed amendment is just and necessary to decide the suit on merits. The proposed amendment will not change the nature of the suit or make out a new case. With these, prayed to allow the application.

3. Per contra, the defendants resisted the application by filing objection and it has been stated therein that application is not maintainable either in law or on facts and same is liable to be dismissed in limine. The trial was already commenced. The plaintiff has not given proper reasons and satisfactory explanation to allow the amendment application. The proposed amendment will change the nature of the suit. Therefore, the plaintiff prayed for dismissal of the application.

4. The points that would arise for consideration are:-

1. Whether the plaintiff has made out that the amendment sought for is required to elucidate the matter in dispute?
2. What order?

5. I have heard the Learned Counsel for the parties to lis and meticulously perused the materials on record.

6. My answer to the above said points are as under:

Point No.1: In the Affirmative;

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

REASONS

7. **Point No.1:-** The plaintiff has filed the present suit against the defendant for grant of permanent injunction. The Learned Counsel for the plaintiff submitted that the proposed amendment is in the form of an explanation about the derivation of the suit property and same is required to elucidate the matter in dispute. The proposed amendment will not change the nature of the suit or introduce new cause of action. As such, he has prayed to allow the application. **Counter to that,** the learned counsel for the defendants to refute the submission canvassed by the learned counsel for the plaintiff argued that, there was no due diligence. The proposed amendment is an afterthought and clearly barred by principles of estoppel. The plaintiff having knowledge has not sought proposed amendment at the earliest point of time. The present application filed at highly belated stage. If the application is allowed the

defendants will be put to prejudice. As such, he has prayed to dismissal of the application.

8. When the matter was posted for plaintiff evidence, at this stage the plaintiff has filed the present application seeking to permit her to carry out the proposed amendment in the plaint. 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 defendant/plaintiff to show to the Court that in spite of due diligence they could not able to amend the plaint/written statement. At this juncture it is worth refer judgment of the Hon'ble Apex Court in the case of Revjeetu Builders and Developers -Vs- Narayanaswamy and Sons and Others reported in (2009) 10 SCC 84, wherein their lordships have held at para No.63 that, while allowing or rejecting the application for amendment the following basic principles ought to be taken into consideration:

- (1) **Whether the amendment sought is imperative for proper and effective adjudication of the case?**
- (2) **Whether the application for amendment is bona fide or mala fide?**

- (3) **The amendment should not cause such prejudice to the other side which cannot be compensated adequately in terms of money;**
- (4) **Refusing amendment would in fact lead to injustice or lead to multiple litigation;**
- (5) **Whether the proposed amendment constitutionally or fundamentally changes the nature and character of the case? and**
- (6) **As a general rule, the court should decline amendments if a fresh suit on the amended claims would be barred by limitation on the date of application.**

9. I have carefully and cautiously gone through the proposed amendment. The plaintiff sought to explain the form documents he acquired for the suit schedule property. The proposed amendment is in the form an explanation about the nature of the derivation of the suit schedule property. The proposed amendment will not change the nature of the suit nor introduce a new cause of action. The proposed amendment is imperative for the proper and effective adjudication of the case. The defendants have the opportunity to file a rejoinder/additional written statement with regard to the proposed amendment. The delay in filing the application for amendment by the plaintiff can be condoned by imposing a suitable cost and the same will meet ends of justice. Accordingly, I answer point No. 1 in the '**Affirmative**'.

10. **Point No.2:-** In view of discussion and the findings arrived at point No.1, I proceed to pass the following:

ORDER

Application filed by the plaintiff under Order VI Rule 17 read with Section 151 of C.P.C., is allowed on cost of Rs.500/-.

Consequently, the plaintiff is permitted to amend the plaint as prayed in the application.

Call on:

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