

ORDERS ON I.A NO.X

L/Advocate for plaintiff filed I.A. No.X U/o.6 rule 17 R/w Sec.151 of C.P.C., seeking permission to carry out the amendment as sought in the I.A., in the interest of justice and equity.

On the other hand L/Advocate for defendants files objections and prayed to reject the application.

Heard and perused. The plaintiff in the affidavit accompanying the application states that, he has filed the suit for the relief Permanent Injunction against the defendants. After filing of written statement by the defendants the plaintiff has got the knowledge of certain facts the impleading of the said facts becomes important in this case. As such, the plaintiff sought for the amendment of plaint as well as the prayer column. The plaintiff states that, if the application is not allowed she will be put to great hardship in this case. Hence, prayed to allow the application.

On the other hand L/Advocate for defendants in their objections stated that, the plaintiff intentionally has not pleaded the facts which he is seeking for amendment. At the time of drafting the plaint the plaintiff was having the knowledge of true facts. Hence, the delayed application is not

maintainable and prays to reject the application.

Perused the plaint and the proposed amendment. The plaintiff has filed the present suit for the relief of permanent injunction stating that, he is having a valuable right of way in B Schedule property. In the original plaint he has pleaded about right of pre-emption. But, in the prayer column he has not sought for declaratory relief.

Further in the present amendment she is pleading about the executing of partition deed and execution of sale deeds subsequent to the institution of suit. So, all these facts becomes important in residing the matter in issue. Further, the proposed amendment is based on the same cause of action and it does not give rise to new cause of action. The application is filed even before commencement of the trial. Recently, the Hon'ble Apex Court has clearly observed that, the applications for amendment of pleadings have to be considered liberally with due care and caution.

In view of the same, the proposed amendment is not against the original pleadings and are not time barred reliefs. Hence, the impleading of the said pleadings will not affect the interest of other side. Hence, there is no hardship in allowing this

application. Accordingly, this court proceed to pass the following,

ORDER

The I.A. No.X filed by the plaintiff U/o.6 rule 17 R/w Sec.151 of C.P.C., is hereby allowed on cost of **Rs.250/-**.

The plaintiff is hereby permitted to carryout the amendment in the plaint as sought in the I.A.

For amendment of plaint and to furnish amended plaint.

Call on.20.12.2023

Prl. Civil Judge & J.M.F.C.,
Hiriyur.