

KACD420020742024



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

PRESENT : Sri.UMESHA M.P., B. A. L., LL, B.,
PRL.CIVIL JUDGE & JMFC,
HOLALKERE

DATED: ON THIS THE 01st DAY OF MARCH - 2025

ORIGINAL SUIT No. 339 / 2024

PLAINTIFF: **KARIBASAPPA** S/o Nagendrappa,
Aged about 36 years, Occ: Agriculturist,
R/o Gilikenahalli Village, Holalkere Taluk,
Chitradurga District.
(BY PLEADER SRI.HRS)

-V/s-

DEFENDANT: **G. E. RAJAPPA** S/o Gowdra Eshwarappa,
Aged about 60 years, Occ:Agriculturist,
R/o Gilikenahalli Village, Holalkere Taluk,
Chitradurga District.
(BY PLEADER SRI.GER)

PARTIES TO I.A.NO.1

APPLICANT/PLAINTIFF: **KARIBASAPPA** S/o Nagendrappa,
Aged about 36 years, Occ: Agriculturist,
R/o Gilikenahalli Village, Holalkere Taluk,
Chitradurga District.
(BY PLEADER SRI.HRS)

-V/s-

OPPONENT/ DEFENDANT: **G. E. RAJAPPA** S/o Gowdra Eshwarappa,
Aged about 60 years, Occ:Agriculturist,
R/o Gilikenahalli Village, Holalkere Taluk,
Chitradurga District.
(BY PLEADER SRI.GER)



ORDERS ON I.A.NO.I

The applicant / plaintiff has filed I.A.No.1 U/o 6 rule 17 R/w Sec.151 of CPC praying to amend the plaint as per the proposed amendment, by allowing this application, in the interest of justice and equity.

Proposed amendment is as under:

In page No.1, Para No.2, line No.6 dated: 17.11.2014 deleted and added in the same place as dated:15.10.2014.

2. In support of the application, the plaintiff has filed sworn affidavit contending that, he has filed the above case against the defendant for the relief of Declaration and mandatory injunction with respect of suit schedule property. It is further stated that, the case is posted for his evidence. It is further stated that, at the time of filing the present suit by oversight mistake and typographical error, in the plaint, in page No.1, para No.2, line No.6 delete the word dated: 17.11.2014, and add the same place as dated: 15.10.2014 and the said mistake is not intentional one and is a bonafide. It is further stated that, the proposed amendment will not change the nature of the suit and is not introduced any new cause of action. If the present application is not allowed, the, the great hardship and injustice would be caused to the plaintiff, no injustice will be caused to other side.



Hence, he prayed to permit him to amend the plaint as per the proposed amendment, in the interest of justice.

3. Per contra, the defendant has orally opposed the said I.A.No.3 contended that, the present application filed by the plaintiff is not maintainable either in law or on facts and circumstances of the case. It is further contended that, the plaintiff has filed this application seeking for amendment as per the proposed amendment. It is further contended that, the plaintiff has sworn false facts in his affidavit. It is further contended that, the defendant has contested the suit by filing his written statement. It is further contended that, the present application is after thought one. It is further contended that, the plaintiff has sworn false facts in the enclose affidavit and all the contents of affidavit are as false. If the application is allowed, it will change the facts and character of the suit and it will introduce a new facts. Hence, he prayed to reject the present application filed by the plaintiff with exemplary cost in the interest of justice.

4. I have heard the arguments of learned counsel for the plaintiff and defendant on IA No.1. Perused the documents on record.

5. Upon hearing arguments and on perusal of materials placed on record the following points that would arises for my consideration:

1. *Whether the applicant/plaintiff has made out the ground to allow the I.A.No.1, at this stage?*



2. *What order?*

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

Point No.1: In the AFFIRMATIVE

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

REASONS

POINT NO.1:-

7. The plaintiff has filed this suit against the defendant for the relief of declaration and mandatory injunction with respect of suit schedule property.

8. The Applicant / plaintiff has filed IA No.1 under order 6 Rule 17 R/w Sec.151 of Civil Procedure Code praying to add the schedule proposed amendment to the plaint.

9. According to plaintiff, in the accompanying affidavit it is stated that, they have filed the above case against the defendant for the relief of declaration and mandatory injunction with respect of suit schedule property. It is further stated that, the case is posted for his evidence. It is further stated that, at the time of filing the present suit by oversight mistake and typographical error, in the plaint, in page No.1, para No.2, line No.6 delete the word dated: 17.11.2014, and add the same place as dated: 15.10.2014 and the said mistake is not intentional one and is a bonafide. It is further stated that, the proposed amendment will not change



the nature of the suit and is not introduced any new cause of action. If the present application is not allowed, the, the great hardship and injustice would be caused to the plaintiff, no injustice will be caused to other side. Hence, he prayed to permit him to amend the plaint as per the proposed amendment, in the interest of justice.

10. Per Contra, the learned counsel for the defendant has orally opposed to IA No.1 contending that, the present application filed by the plaintiff is not maintainable in law or on facts and circumstances of the case. It is further contended that, the plaintiff has filed this application seeking for amendment as per the proposed amendment. It is further contended that, the plaintiff has sworn false facts in his affidavit. It is further contended that, the defendant has contested the suit by filing his written statement. It is further contended that, the present application is after thought one. It is further contended that, the plaintiff has sworn false facts in the enclose affidavit and all the contents of affidavit are as false. If the application is allowed, it will change the facts and character of the suit and it will introduce a new facts. Hence, he prayed to reject the present application filed by the plaintiff with exemplary cost in the interest of justice.

11. In this regard Order 6 rule 17 of CPC must be looked in to ...

Order 6 rule 17 of CPC... Amendments of pleadings:-



The court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties.”

“Provided that no application for amendment shall be allowed after the trial has commenced, unless the court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.”

12. After reading the above procedural aspect now it is very clear that, the court shall not allow the amendment of pleadings after the commencement of trial but party could not raised the same in spite of due diligence before commencement of trial if party satisfied the due diligence to the court then court can allow the application even after commencement of trial.

13. The Applicant / plaintiff has filed IA No.1 under order 6 Rule 17 of Civil Procedure Code praying to amend the plaint as per proposed amendment.

14. The plaintiff has filed this suit against the defendants seeking for the relief of declaration and mandatory injunction with respect to the schedule property. The defendant has not contested the suit by filing his written statement. When the case is set down for plaintiff's evidence, this



present application being filed seeking amendment of plaint. No doubt it is true that, the evidence of the plaintiff is not yet commenced. But on perusal of proposed amendment it is clear that, the plaintiff wants to correct his pleadings and his case in order to prove the same. Under these circumstances, the proposed amendments are just and necessary to adjudicate the real controversy between the parties finally and effectively. If the application is allowed it would meet the ends of justice. Other wise chances of multiplicity of proceeding including wastage of cost and time of both the litigants cannot be ruled out. Therefore, to advance the cause of justice, I proceed to following:

Point No.2 :

15. For the aforesaid reasons, discussions made above, I proceed to pass the following:

ORDER

IA.No.1 filed by the plaintiff under the provisions of Order 6 Rule 17 of CPC is hereby allowed.

No cost.

Learned counsel for the plaintiff is permitted to carry out necessary amendments and furnish the amended plaint.

(Dictated to the Stenographer directly on computer, typed by her, the same is corrected and then pronounced by me in the open court on this the 01st day of MARCH – 2025)

(UMESHA M.P)
Prl.Civil Judge,
Holalkere