

ORDER ON I.A.No.III

The plaintiff No.1 has filed I.A.No.III U/o 6 rule 17 of CPC, to carryout amendment in the plaint as sought in the I.A.

2. The plaintiff No.1 has sworn in an affidavit along with I.A.No.III, wherein he stated that at the time of filing suit, due to typographical mistake some corrections crept in and it is not intentional one. As such he stated that it is a bona-fide mistake and it will not

change the nature of the suit or prejudice the defendants. Hence, he prayed to allow the I.A., in the interest of justice and equity.

3. Upon service of copy of I.A.No.III, on the defendants, the defendants did not file any objections and their objections were taken as nil.

4. The arguments of both sides taken as nil. Perused the I.A.No.III, and materials placed on record.

5. On perusal of records, the plaintiffs have filed the suit for declaration and mandatory injunction with respect to suit schedule properties, on the grounds that they are absolute owners of the suit schedule properties. The defendants have encroached "B" schedule property. The present amendment is in the nature of arithmetical correction. It is the counsel who draft the plaint. Without any mistake by the parties, they should not suffer for the mistakes of the pleader.

6. Since, the trail has not commenced yet, the plaintiffs can seek amendment as a matter of right without assigning special reasons for

due diligence. The proposed amendment neither change the cause of action nor the nature of suit. Rather, the proposed amendment will decide the lis between the parties completely and effectively. Therefore, the I.A.No.III is liable to be allowed. Accordingly, this Court proceed to pass the following:-

ORDER

The I.A.No.III filed U/o 6 Rule 17 of C.P.C, by the plaintiffs is hereby allowed.

The plaintiffs are permitted to carryout the amendment as sought in the I.A.No.III.

For amendment and amended plaint.

Call on: 18/11/20.

**Addl.Civil Judge and JMFC.,
Hosadurga.**