



**IN THE COURT OF THE I ADDL.CIVIL JUDGE & JMFC, AT
KADUR**

PRESENT:- SMT.AMRIN SULTANA B.A, LL.B.,

Addl.Civil Judge & JMFC, Kadur

Dated this 24th day of November, 2023

O.S.NO.104/2019

PLAINTIFF : Sri. A.P. Puttaswamy S/o Late. Puttappa,
Aged about 62 years, Agriculturist,
R/o Agrahara Village, Nagenahalli Post,
Sakrepatana Hobli, Kadur Taluk,
Chikmagalur District.

V/s-

DEFENDANTS : Sri. A.T. Govindappa @ Kenchappa,
S/o Thimmaiah, Aged about 55 years,
Agriculturist,
R/o Agrahara Village, Nagenahalli Post,
Sakharayapattana Hobli, Kadur Taluk,
Chikmagalur District.

**I.A. VI****APPLICANT/
PLAINTIFF**

Dhananjayamurthy A.P. (SPA Holder)

-V/s-**OPPONENTS /
DEFENDANTS/**

Sri. A.T. Govindappa

1.	Number of IA	I A No. VI
2.	Provision of law	Under Order 6 Rule 17 R/w Sec.151 CPC
3.	Filed by	SPA Holder of plaintiff
4.	Date of filing	12.01.2023
5.	Date of filing of objections	18.01.2023
6.	Date of Order	24.11.2023

**ORDER ON I.A. NO.VI FILED U/O VI RULE XVII OF CPC BY THE
PLAINTIFF**

This is an application filed by the plaintiff seeking permission to amend the plaint averments.



2. The plaintiff filed present suit for the relief Eviction against the Defendant. Matter is in the stage of trial. Meanwhile the plaintiff has filed present application along with an affidavit and sworn that, due to oversight and technical mistake the date of approach by the defendant for the lease of suit schedule property was wrongly mentioned as 15/01/2016 instead of the date. 05/01/2016 due to lack of knowledge he could not find out the said mistake in time. Now recently he came to know about the said mistake. Hence filed the present I.A to amend the said mistake. The proposed amendment is just and necessary for effective adjudication of all the questions and issue in the suit. Hence, IA may be allowed.

3. The defendant has filed objection. Contending that, the plaintiff in the plaint as well as in the chief affidavit mentioned the date of oral Leas agreement as 15/01/2016 to 15/01/2019 and



given the possession to the defendant. During the course of cross examination the PW-1 stated that no conciliation was made as on the date of 15/01/20016 and the conciliation was taken place On 05/01/2016. After this elicitation the plaintiff has filed this application to amend the date to correct their mistake. The present application is filed to suppress the fact. Hence, prayed to dismiss the present application with cost.

4. Heard the arguments from both side.
5. The following Points would arise for consideration of this Court.

POINTS

- 1 Whether the proposed amendment is necessary for the purpose of determining the real questions in controversy between the parties?
- 2 What Order ?



6. My findings to the above Points are as follows:

POINT NO.1 : In the ' Affirmative'

POINT NO.2 : As per final order
For the following:

REASONS

7. **POINT NO.1**:- The plaintiff filed present suit for the relief of the Eviction against the defendants over the suit schedule property.

8. Meanwhile the plaintiff has filed present application as well as affidavit and sought for amendment of plaint by amending the date.

9. In order to find out whether the Application of the plaintiff under Order VI Rule 17 for amendment of Plaint is bona-fide and sustainable at this stage or not, it is useful to refer to the relevant provisions of CPC. Order VI Rule 17 reads thus:

“17. Amendment 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.”

10. The proviso limits the power to allow amendment after the commencement of trial but grants discretion to the court to allow amendment if it feels that the party could not have raised the matter before the commencement of trial in spite of due diligence. It is true that the power to allow amendment should be liberally exercised. The principles that guide the exercise of discretion in allowing the amendment are that, to avoid multiplicity of proceedings. That amendments which do not totally alter the



character of an action should be granted, while care should be taken to see that, injustice and prejudice of an irremediable character are not inflicted upon the opposite party under pretense of amendment.

11. In the present case on hand the matter is in the trial stage. Meanwhile, the plaintiff has filed present application as well as affidavit and sworn that, due to oversight and technical mistake the the date of discussion of lease agreement was wrongly mentioned as 15/01/2016 instead of mentioning as 05/01/2016. Reading of the entire plaint, the fact set up by the plaintiff will not change. There is no change in the nature of the suit and there is no hardship to the other side. Hence, this Court came to conclusion that the proposed amendment is very much required to determine the real controversy between the parties. It has been not leading to the injustice to other party. Therefore, at this stage, the plaintiff/applicant has made out the ground that, the proposed



amendment is necessary to determine the real controversy between the parties. Accordingly, the Points under consideration are answered in the **Affirmative**.

12. **POINT NO.2**: - In view of the above discussion and answering the above Points, I proceed to pass the following:

ORDER

I.A. No. VI filed by the plaintiff under Order VI Rule XVII of C.P.C. is hereby allowed with cost of Rs.500/-.

(Dictated to the Stenographer directly on computer and transcribed by her, Order corrected and signed by me, then pronounced by me in the Open Court on this the 24th day of November, 2023).

Sd/-
(**SMT. AMRIN SULTANA.**)
1st Addl Civil Judge & J.M.F.C, Kadur.