

ORDERS ON I.A.NO.II

The present application has been filed by the plaintiff when the matter has been posted for filing the written statement of defendants. The plaintiff has filed the present application U/O 6 Rule 17 R/w Section 151 of CPC seeking leave of this Court to amend the plaint in order to delete the name of the defendant No.2 in the cause title by mentioning Yashodha instead of Vinodha.

2. The plaintiff has filed an affidavit in support of present application wherein contended that at the time of filing of the suit due to oversight and typographical error that the name of the defendant No.2 wrongly mentioned as Vinodha instead of Yashodha. Hence It is necessary to amend the name of the defendant No.2 in the above suit, in the interest of justice and equity. On these grounds, the plaintiff prays for allowing the present application.

3. On the other hand, the defendant No.1 has filed his objection to the present application by stating that when the matter has been posted for filing of the written statement of defendant No.1, the plaintiff has come with this application with a malafide intention to cause injustice, loss, hardship and prejudice to the defendants and to take away the important admissions made in the plaint. It is further contends that if the application is allowed then it will seriously affects the defendants in the suit and caused great injustice and hardship to the defendants. Hence prays to reject the application.

4. Heard the arguments of both side.

5. In view of the above contentions of the both parties, the following points arises for consideration of the above application;

1. Whether the plaintiff makes out sufficient grounds to permit him to amend the plaint as sought for?

2. What order ?

6. The answers of this Court for the above points for consideration 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 present suit has been filed by the plaintiff against the defendants seeking for the relief of permanent injunction. When the matter has been posted for filing of written statement of the defendants, the plaintiff has come up with this application by stating that while filing the suit due to over sight the name of the defendant No.2 was wrongly mentioned as Vinodha instead Yashodha.

8. Order VI rule 17 of Code of Civil Procedure is very clear that the amendment sought before commencement of trial shall have to be allowed without expecting due diligence and that the amendment sought after commencement of trial shall have to allowed only on sanctification that in spite of due diligence, the party could not sought for amendment at the earlier point of time and it cannot be denied solely on the ground of delay if the Court is

satisfied that they are necessary to determine the real question.

9. The fact sought for addition by the plaintiff is to amend the cause title which is prior to the commencement of the trial and before filing of the written statement. If the application is not allowed then the purpose of the filing of the suit will not survive without correcting the name of the defendant No.2 in the above suit and the same will cause injustice to both the parties.

10. The proposed amendment is neither inconsistent with the earlier pleading nor it change the nature of the suit. By permitting the proposed amendment, no new defence will be brought on record and the proposed amendment will in no way prejudice the case of defendants. If the proposed amendment is not permitted, then the fact proposed to be added would lead for creating confusion in determining the issue involved in this suit. Hence, this Court answers point No.1 in “**Affirmative**”.

11. Point No.2: In view of the reasons recorded on the above Point No.1, this Court deems it fit to allow the present application. Hence, this Court proceeds to pass the following:

ORDER

**I.A.No.II filed by the plaintiff
U/O 6 rule 17 R/w Section 151 of
CPC, is hereby allowed.**

**Plaintiff is permitted to carryout
amendment in the plaint as sought
for in I.A.No.II.**

**For carrying out amendment
and to file amended plaint by:
13.01.2026.**

Sd/-
I Addl. Civil Judge & JMFC.,
Mudigere.