

ORDERS ON I.A.No.XIV

The plaintiff has filed the application U/o.VI rule 17 of CPC seeking permission to amend the plaint as prayed in the I.A.

2. In support of the application the plaintiff has filed affidavit, submitted he has filed the suit for permanent injunction, the plaint be read as part and parcel of the affidavit. At the time of filing of suit, he fails to mention complete information in the plaint, hence the application to mention the correct picture of the property in possession of the plaintiff. Hence, the application seeking for amendment. Allowing of application will not change the nature of suit or cause of action. The amendment is necessary to adjudicate the matter effectively. Hence, prays to allow the application.

3. The defendants filed the objection, submitted, the application is not maintainable either in law or on facts. The application is filed to drag the proceeding. Only after defendants successfully brought to the kind notice of the court that plaintiff is not in possession of suit schedule property, the

application is filed. The plaintiff in the application and affidavit fails to mention the reason for non mentioning the proposed facts in the plaint at the earliest point of time. Hence, prays to reject the application.

4. On the basis of the above, point for consideration is that:

Whether the plaintiff has made out the proposed amendment is just and necessary to adjudicate the matter effectively?

5. Heard arguments. Perused the materials on record.

6. My findings on the above point in the "**Affirmative**" for the following:

REASONS

7. The plaintiff has filed the suit for permanent injunction to restrain the defendants from interfering with his peaceful possession and enjoyment of property bearing Sy.No.407/4, totally measuring 33 gunta, out of which 15 gunta more fully described in the schedule of the plaint. The defendants appeared, contended the schedule mentioned in the plaint is

incorrect and plaintiff has suppressed the existence of Kudremukha-Kalasa road runs intermediately over suit schedule property. Further, during the arguments on I.A.No.I, defendants have established the same with the help of atlas copy of Sy.No.407/2, then the application is filed. In the application plaintiff proposed add a para stating Sy.No.407/4 totally 33 gunta out of which 15 gunta is a cultivable land and remaining 18 guntas is kharab, out of kharab 15 gunta is Kudremukha-Kalasa road it divides the 15 gunta cultivable land in two parts. Further, 5 gunta kharab is belongs to house of plaintiff. The proposed amendment is classificatory in nature and it is just and necessary to adjudicate the matter in dispute. The allowing of application will not cause any prejudice to the defendants. Hence, I answer the above point in the "**Affirmative**" in the result, proceed to pass the following:

ORDER

The I.A.No.XI filed by the plaintiff u/o.VI rule 17 of CPC is hereby allowed in part on costs of Rs.300/-.

The plaintiff is permitted to amend the plaint as prayed in the I.A.

To carryout the amendment and to furnish the amended plaint by:

sd/-

(J. KRISHNA)

**C/C. ADDL. CIVIL JUDGE & JMFC.,
MUDIGERE.**