

## **ORDERS ON I.A.NO.XVIII**

The present application is filed at the stage of further chief-examination of PW1. The plaintiff has filed the present application under Order 6 rule 17 of CPC seeking permission to amend the plaint by inserting old survey number in the suit schedule.

**2.** In support of the present application, the GPA holder of the plaintiff has filed his affidavit contending that due to oversight, the old survey number of the suit schedule property was not mentioned. The proposed amendment does not change the nature of suit. On these averments, the plaintiff has sought for allowing the application.

**3.** On the other hand, the defendants have filed their statement of objections to the present application contending that the application is not maintainable in law. There is no due diligence in filing the present application and the proposed amendment will change the nature of suit. No grounds are made out to allow the application. On these averments, the defendants have sought for rejection the present application.

**4.** Heard the arguments of both side and also perused the materials available on record.

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

- 1. Whether the plaintiff has made out that the proposed amendment is necessary for determination of real question in controversy and the same doesn't change the nature of suit?**
- 2. Whether the plaintiff has made out that the proposed amendment do not prejudice the case of defendants?**
- 3. 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: **In the Affirmative**

Point No.3: As per final order for the following:

### **REASONS**

**7. Points No.1 and 2:** Since these points require common consideration in order to conclude the decision on the present application, the same are taken for common discussion.

The above suit is filed for the decree of permanent injunction with respect to the suit schedule property. The present application came to

be filed seeking leave of this Court to amend the plaint to insert old survey number to the plaint schedule property. The present suit is now at the stage of further chief-examination of PW1, thus it is necessary here to examine whether the proposed amendment is necessary for adjudication of suit and the same doesn't change the nature of suit or prejudice the other side.

**8.** The present application is based on the sole ground that the proposed amendment is necessary to adjudicate the suit and the mistake in not mentioning the old survey number is not an intentional one. On the other hand the defendants have contended that to proposed amendment does change the nature of suit. It is germane here to refer the decision of Hon'ble Supreme Court in the case of **Life Insurance Corporation of India V/s Sanjeev Builders** reported in **2022 SC 4256**. Wherein, Hon'ble Apex Court has laid down guidelines regarding amendment of pleadings that if the amendment is required for effective and proper adjudication of the controversy between the parties; to avoid multiplicity of proceedings and if the amendment does not result in injustice to the other side, the prayer for amendment generally shall be allowed.

**9.** On co-joint reading of Order 6 Rule 17 along with the above referred decisions, if the

proposed amendment is looked into, the same is to insert old survey number of the suit schedule property. The present suit being one for bare injunction with respect to the immovable property, the proper description of suit property will play vital role in adjudicating the matter. Therefore, it cannot be held that the proposed amendment is not necessary. No new case will be introduced by allowing the proposed amendment and the same will not prejudice the other side. On the other hand if the proposed amendment is not permitted then there will be multiplicity of proceedings. Hence, this Court answers points No.1 and 2 in **"Affirmative"**.

**10. Point No.3:** In view of the reasons recorded by this Court on the above Points No.1 and 2, this Court deems it fit to allow the present application. Whereas equity requires imposition of costs on the plaintiff for filing the present application at the belated stage of the suit. Hence, this Court proceeds to pass the following:

**ORDER**

**I.A.No.XVIII filed by the plaintiff U/O 6 rule 17 is hereby allowed on cost of Rs.300/-.**

**Plaintiff is permitted to carryout the amendment in the plaint as sought for in**

O.S.173/2020

**I.A.No.XVIII and to file amended plaint by:  
21.10.2024.**

**Sd/-**

**(Vishwanath A.)**

C/c Addl. Civil Judge & JMFC.,  
Mudidgere.