

KACM510003512023



**IN THE COURT OF THE SENIOR CIVIL JUDGE AND
JMFC AT N.R.PURA**

Present: Smt.B.S.Rayannawar, B.A., L.L.B,
Senior Civil Judge & JMFC.,
N.R.Pura.

Dated this the 20th day of February 2024

OS.No.29/2023

BETWEEN:

Sri.H.N.Halappa Gowda

...Plaintiff.

V/s.

AND:

Sri.A.A.Krishnamurthy

...Defendant.

IA.NO.VI

BETWEEN:

Sri.H.N.Halappa Gowda

...Plaintiff/Applicant.

V/s.

AND:

Sri.A.A.Krishnamurthy

...Defendant/Opponent.

**ORDER ON IA NO.VI**

Present application filed by the applicant/Plaintiff under Order 6 Rule 17 of CPC seeking permission to amend the plaint.

PROPOSED AMENDMENT**Schedule**

In the plaint relief column the schedule item No.1 instead of 3 acre 05 guntas, 3 acres is typed, it is to be rectified as 3 acres 05 guntas.

2. I.A. supported with the affidavit of plaintiff wherein stating that, he filed the above case against the defendant for specific performance of the contract and possession of the suit schedule property. By typographical error in the plaint in the suit schedule by typographical error instead of 3 acre 05 guntas wrongly typed as 3 acres is only a typographical error and not intentional one. Hence if the application is allowed no hardship is cause to the defendant. If the application is not allowed the plaintiff



will be put to great hardship and inconvenience. Hence prays to allow the application.

3. I.A. opposed by defendant by filling written objection contending that, the application filed by the plaintiff is not maintainable either under law or on facts. The application is barred by the limitation. The plaintiff has filed the said application only to drag the matter and to cause the harassment to the defendant. The proposed amendment sought for is change the nature of suit and as well as cause of action. The plaintiff is going to introduce new facts by way of amendment which is not permissible under law. The plaintiff has sworn false affidavit with false contents, which cannot be believed. Hence the application filed by the plaintiff is not maintainable and liable to be dismissed. On these grounds prays to dismiss the application.



4. Heard both respective counsels for plaintiff and defendant.

5. Perused application, annexed affidavit, objection and other material on record.

6. The points that arises for my consideration are as follows.

POINTS

1. Whether the proposed amendment is just necessary for the adjudication of the case?
2. What order ?
7. My findings to the above points are as under.

Point No.1: In the Affirmative.

Point No.2: As per order for the following.

REASONS

8. **Point No.1:** Whether the defendant is executed agreement of sale with respect to suit property agreeing to execute register sale deed after receiving the balance



consideration amount or not is a matter for trial to be decided after appreciating oral and documentary evidence. When the plaintiff filed suit for specific performance of contract, burden is upon him to prove the execution of agreement, and his ready and willingness to perform his part of contract.

9. The plaintiff by way of amendment intends to amend the measurement of the property in schedule. It is the contention of plaintiff that in the plaint relief column the schedule item No.1 instead of 3 acre 05 guntas, 3 acres is typed it is to be rectified as 3 acres 05 guntas. Perused the agreement of sale wherein the measurement of the property mentioned as 3 are 05 gunta, but the plaintiff in his paint schedule mentioned as 3 acres. The proposed amendment would not introduce any new case and it would not introduce any new case and it would not



prejudice the defendant. Is it true that there is some delay on the part of plaintiff, but it cannot be a ground to dismiss the application of this nature. The delay and latches on the part of the plaintiff and inconvenience caused to defendant can be dealt with by imposing cost. So as to adjudicate the dispute between the parties once for all, this court opined that it is just and proper to permit the plaintiff to amend the plaint. Hence **point No.1 answered in the Affirmative.**

10. **Point No.2:** In view of the above discussion I proceed to pass the following:

ORDER

IA No.VI filed by the plaintiff
under Order VI Rule 17 of CPC is
hereby allowed with cost of Rs.100/-.

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OS No.29/2023

Plaintiff permitted to amend the
plaint.

(Dictated to the Stenographer directly on the computer, then
corrected and pronounced by me in the open court on this date the
20th day of February, 2024)

Sd/-

(B.S.Rayannawar)

Senior Civil Judge and JMFC.,
N.R.Pura.