

KACM710006522020



**IN THE COURT OF THE CIVIL JUDGE & ADDL J.M.F.C., AT:
TARIKERE.**

Present

SMT. ROOPA M .D
B.A (L) L.L.B.
CIVIL JUDGE & ADDL. JMFC, TARIKERE.

O.S.No.139/2020

Dated on this the 31st day of July 2021

Plaintiff/s : **Sri.Ravi.L.Halli,**
S/o Rudrappa.A,
Aged 49 years,
Agriculturist,
R/o Near Bus Stand,
Lingadahalli Village & Hobli,
Tarikere Taluk.
W/o Gantlareddy

(By Sri.A.T.Avinash-Adv.)

V/s

Defendant/s:

- 1. Sri. Ghouse Peer,**
S/o late Bashir Ahmed,
Aged 42 years,
Agriculturist,
R/o Lakkinakoppa Village,
Kachikatte Post,
Shivamogga Taluk & District.
- 2. Sri. Sadiq Basha,**
S/o late Umar Sab,
Aged about 47 years,
Agriculturist,
R/o Main Road,
Lingadahalli Village & Hobli,

Tarikere Taluk,
Chikkamagaluru District.

(D1-By Sri.D.Annappa Naika-Adv.)
(D2-By Sri.G.Vijay Kumar-Adv.)
PARTIES ON IA.No.VI

Applicant/plaintiff : Sri.Ravi.L.Halli
/Vs/
Opponents/Defendants: Sri.Ghouse Peer & Anr.

ORDER ON IA NO.VI FILED BY THE PLAINTIFF UNDER
ORDER 6 RULE 17 R/W SECTION 151 OF CPC

The applicant / plaintiff filed the present I.A. No.6 U/o.6 R.17 R/w. Sec. 151 of CPC seeking to amend the plaint.

2. Allowing the said application is opposed by the defendant No.2 by filing objection.

3. Heard both sides

4. The following points arise for my consideration:-

1. *Whether the proposed amendment is necessary for determining real question in controversy between the parties?*

2. *What order?*

5. My answer to the above points are:-

Point No.1 : In the Affirmative

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

REASONS

6. **Point No.1:-** The suit is one for declaration and permanent injunction. When the case is posted for plaintiff

evidence, the present application is filed by the plaintiff to amend the plaint. By way of amendment, the plaintiff intends to insert the para 7(a) to the plaint as follows:-

7(a) It is submitted that earlier to filing the present suit the defendant No.2 herein has filed the suit for specific performance of contract in respect of suit schedule property against the defendant the defendant No.1, plaintiff herein and Ajumunnissa @ Ajinabi W/o late Bashir Saheb and others in OS.No.243/2016 before this Court .

7. In the accompanying affidavit annexed to the I.A, it is stated by the plaintiff that the defendant No.2 herein has filed the suit for specific performance of contract in respect of suit schedule property against the defendant No.1, plaintiff herein and Ajumunnissa @ Ajinabi W/o late Bashir Saheb and others in OS.No.243/2016 before this Court. At the time of filing the present suit due to oversight it was not pleaded in the plaint. Hence, the said pleadings kindly added in he suit. Therefore, the present application.

8. The counsel for the 2nd defendant filed objection to the above said application and contends that the application is filed only drag on the unrighteous litigation and also nothing but a abuse of process of law and same is filed only with an intention to give trouble to the 2nd defendant and he intended to gain illegally by hook or

crook. Hence, prays to dismiss the application with exemplary cost.

9. Undoubtedly, no amendment can be allowed after framing of Issues. However what is pertinent to note that the plaintiff evidence is yet to commence, the plaintiff being the master of the suit, it is the abundant duty of the plaintiff to clearly and unambiguously plead his case. During the pendency of the suit, the plaintiff intends to plead about the suit filed by the defendant No.2 in OS.No.243/2016 with respect to suit schedule property. The said pleading does not change the nature of the suit and is just and necessary to determining the issues of the present suit and about the maintainability of the present suit in view of filing an another suit by defendant No.2 with respect to OS.No.243/2016. As such, allowing the said application will not inflict the opposite party into irremediable character. As such to avoid multiplicity of proceedings and for fair adjudication of the matter, I am of the opinion that the present application deserves to be allowed. Therefore, I answer point No.1 in the Affirmative.

Point No.2:-

10. From the foregoing discussions and reasons stated therein and in view of my findings to point No.1, I proceed to pass the following:

ORDER

I.A No. VI filed by the applicant/plaintiff
Under Order 6 Rule 17 R/w 151 of CPC is
hereby allowed.

For amendment of the plaint and
amended plaint.

*(Dictated to the stenographer, transcribed and typed by him,
corrected, initiated and then pronounced in the open Court on this
the 31st day of July 2021.)*

Sd/-
(Roopa M.D)
Civil Judge & J.M.F.C.
Tarikere.