

**IN THE COURT OF THE CIVIL JUDGE AND ADDITIONAL  
J.M.F.C., AT TARIKERE**

**Present** : SMT.PAVITHRA.M.D, B.A., LL.B.,  
Civil Judge & Addl. JMFC. Tarikere.

**O.S.No.197/2016**  
**Dated this 20<sup>th</sup> day of August 2019**

**ORDER ON IA.No.10**

The plaintiff has filed this application under Order 6 Rule 17 R/w Sec.151 of CPC to permit him to amend his plaint as prayed.

2. It is averred in the affidavit annexed to the application that, he filed the present suit for the relief of permanent injunction against the defendant and at the time of filing the suit, due to mistake he has not communicated his counsel regarding the pendency of the suit in OS.No.86/2016 and 84/2016 on the file of this Court which were brought by defendant No.1 and 2. Further, the proposed amendment is necessary and essential to prove his case. Hence, this application.

3. The defendants have resisted the application by filing their objection statement wherein they stated that, in OS.No.84/2016 and 86/2016, the Hon'ble Addl. Civil Judge at Tarikere after hearing both the parties, granted injunction against the present plaintiff. The said fact is well within the knowledge of the plaintiff, since he is party to the said

proceedings. The present application is filed by the plaintiff after lapse of 3 years from the date of knowledge. Hence, the application filed by the plaintiff is not sustainable. Accordingly, they prayed to dismiss the application with exemplary cost.

4. Heard on IA.No.10.

5. Perused the application in the backdrop of materials available on record. The plaintiff has filed suit for the relief of permanent injunction restraining the defendants from interfering with the construction work in the suit schedule site. It is the claim of the plaintiff that, at the time of filing the present suit is unable to communicate his counsel about the proceedings in OS.No.84/2016 and 86/2016 on the file of this Court and the said fact is just and necessary to prove his case. Per-contra, the defendants have not disputed the proceedings in OS.No.84/2016 and 86/2016, but they contended that, the proceedings of the suit in OS.No.84/2016 and 86/2016 are well within the knowledge of the plaintiff and he filed a present application after lapse of 3 years from the date of his knowledge. The claim and resistance made by the both parties reveals that, there is no dispute with regard to proceedings in OS.No.84/2016 and 86/2016. Moreover, the proposed amendment is with regard to the proceedings in OS.No.84/2016 and 86/2016. Further, the proposed amendment will not the nature of the suit or cause of action. Apart from this, the plaintiff has filed this application when his evidence is yet to be commenced. Therefore, in order to

avoid multiplicity of proceedings and to meet the ends of justice, the application filed by the plaintiffs is deserves to be allowed. Accordingly, I proceed to pass the following:

**ORDER**

IA.No.10 filed under Order 6 Rule 17 R/w Sec.151 of C.P.C is hereby allowed on cost of ₹200/-.

The plaintiff is permitted to amend the plaint as prayed.

To carry out amendment and amended  
plaint by

*Sd/-*

**(PAVITHRA.M.D )  
CIVIL JUDGE AND  
ADDL.J.M.F.C., TARIKERE.**