

**ORDER ON IA NO.X FILED U/O VI RULE 17 R/W SECTION
151 CPC**

The plaintiffs have filed this application under Order VI Rule 17 R/w Sec.151 of C.P.C for amendment of plaint as sought for in the application.

2.In the affidavit accompanying to IA the plaintiff no.1 stated that they have filed the above suit for the relief of Declaration and Permanent Injunction against the defendants. At the time of filing above suit due to oversight there is mistake in the 'A' schedule attached to the plaint as the East to West and North to South measurement of the suit 'A' schedule property was inter chaged. The said mistake is bonafide and not an intentional one. On allowing the above application no prejudice will be caused to the defendants and accordingly prayed to allow the application.

3. On the other hand the defendants have filed detailed objection opposing the application and submitted that the application is not maintainable either under law or on facts and same is liable to be dismissed. It is further submitted that the proposed amendment is inconsistent with existing pleadings.

Further the plaintiffs are seeking to amend the plaint by inserting new facts without any documents in support of the alleged facts as such new facts can not be inserted by way of amendment. The proposed amendment is sought based on imaginary facts without any documents in support of the same and the facts narrated in the proposed amendment are contrary to the pleadings already on the record as such the proposed amendment is not permissible under law. The proposed amendment is not necessary for the purpose of determination of the real question in controversy between the parties. For all these reasons they sought for rejection of the application.

4. Heard both the counsel for the plaintiffs and defendants. Perused the materials on record.

5. The plaintiffs have filed the above suit against the defendants for the relief of Declaration and Permanent Injunction. Now the plaintiffs without changing their earlier contentions are seeking amendment in the schedule of the plaint stating due to oversight there is mistake in the 'A' schedule attached to the plaint as the East to West and North to South measurement of the suit 'A' schedule property was inter chaged. The proposed amendment does not change the nature of the suit or cause of action. Hence, no prejudice will be caused to the defendants if the proposed amendment is permitted. Keeping in view the rival contentions of the parties, the proposed amendment is necessary to decide all the

controversies involved in the suit completely and effectually. No doubt there is delay in filing the application. The inconvenience that may be caused to the defendants may be compensated by imposing costs. For all these reasons , it is fit case to exercise the discretion to allow the application and permit the plaintiffs to amend the plaint as sought for in the IA. Hence, I proceed to pass the following:-

ORDER

IA No. X filed by the plaintiffs under Order VI Rule 17 R/w Sec.151 of Code of Civil Procedure is hereby allowed on cost of Rs.300/-.

The plaintiffs are permitted to amend the plaint as sought for in the IA No.X.

For amendment and amended plaint.

Prl.Civil Judge and JMFC.,
Kollegala,

CORRECTED

OK

