

**THE COURT OF THE ADDL. CIVIL JUDGE, AND JUDICIAL
MAGISTRATE FIRST CLASS AT HONNALI**

**PRESENT : Sri. H. Devadas., B.A., LL.B
C/c Addl. Civil Judge & JMFC, Honnali**

Dated this the 30th day of March 2024

O.S.No.204/2017

PLAINTIFF : Smt. Susheelamma

V/s

DEFENDANTS : Smt. Deepa and another

IA No-V

**Applicant/
Defendants : Smt. Deepa and another**

V/s

**Opponent/
Plaintiff : Smt. Susheelamma**

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The present application is filed on 03.08.2023 when the matter was posted for cross of PW1.

ORDER ON I.A. No.V

The defendants have filed an application under Order VI Rule 17 R/w Section 151 of CPC, for amendment of written statement in the ends of justice and equity.

2. The reasons ventilated in the affidavit annexed to the application is that, the plaintiff has filed this suit for the relief of declaration, mandatory injunction and other consequential relief of permanent injunction in respect of the suit schedule property.

Further submit that present application filed seeking for amendment. Further submit that, they have noticed that, due to over sight at the time of filing the written statement they have not informed and instructed to their counsel and the said mistake is bonafide one, hence they have filed present application seeking for amendment to amend written statement. Further submit that, if the present application is not allowed the defendants would be put to great hardship and irreparable loss caused. Hence, prayed to allow the application.

3. The learned counsel for the plaintiff has filed statement of objection by contend that the application filed by the defendants is not maintainable either in law or facts same is liable to be dismissed. Further contend that the defendants have not shown sufficient reasons to allow the present application. Further, contend that the nature of the amendment will change the nature of the suit. Hence, prays for dismiss the application with exemplary costs.

4. Heard arguments on both side.

5. After going through the application with affidavit and oral objection, points arise for my consideration are ;

1. Whether the defendants have made out grounds to amend the plaint?

2. What order ?

6. My answer to the above points are as under:

Point No.1 : In the **Affirmative.**

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

REASONS

7. **Point No.1** : The suit is filed one for the relief of declaration, mandatory injunction and other consequential relief of permanent injunction in-respect of the suit schedule property. The main contention of the defendants is that, seeking for amendment in the written statement as mentioned in the application.

8. As per the provision the Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just and all such amendments shall be made as may be necessary for the purpose of determining the real question in controversy between the parties. The plaintiff has objected the application. The proposed amendment is very much necessary for determining the real question in controversy between the parties. If the proposed amendment is not allowed it will infringe the rights of the defendants. The proposed amendment does not take away the legal right of the party and it is very much necessary in determining the rights of the parties. At this stage, this Court opines that, it is very much necessary to provide an opportunity to the defendants to carryout the amendment in the plaint because said amendment will not cause any injustice whatsoever to the plaintiff and provision relating to amendment of pleadings must be liberally construed with a view to promote ends of justice and not to defeat. The Court finds no impediment to allow the application.

In the touchstone of the reasons stated above, I answer **Point No.1 in the Affirmative.**

9. **Point No.2** : In view of my findings on Point No.1, I proceed to pass the following:

ORDER

I.A. No.V filed by the defendants under Order VI Rule 17 R/w Sec.151 of C.P.C. is hereby allowed subject to payment of Rs.200/- which is payable by the defendants to the plaintiff.

The defendants are permitted to carry out the amendment in the written statement in accordance with the IA.No.V and file amended plaint.

[Dictated to the stenographer directly on computer, typed by her, corrected and then pronounced by me in the open court on this day of 30th March 2024]

(H. Devadas)
C/c. Addl. Civil Judge and JMFC.,
Honnali.

(Order pronounced in the open court, vide separate order)

∴ ORDER ∴

I.A. No.V filed by the defendants under Order VI Rule 17 R/w Sec.151 of C.P.C. is hereby allowed subject to payment of Rs.200/- which is payable by the defendants to the plaintiff.

The defendants are permitted to carry out the amendment in the written statement in accordance with the IA.No.V and file amended plaint.

Call on 29-05-2024.

C/c. ACJ., Honnali.