

ORDER ON APPLICATION NO.XX TO XXIII
FILED BY THER PLAINTIFF UNDER ORDER
22 RULE 4, 22 RULE 9 AND R/W SEC.151
OF CPC AND SEC.5 OF LIMITATION ACT.

The counsel for plaintiff filed these applications stating that defendant No.4 expired on 01-01-2023. In order bring Lrs of defendant No.4 filed these applications. After filing of application notice of I.A. has been issued to the proposed defendant No.4(a) to (c). The I.A. notice served to the proposed defendant No.4(a) to (c) but these LR's of

defendant No.4 not represented the case and they placed absent.

The plaintiff in his affidavit submits that, the plaintiff filed this suit for the relief of partition and separate possession of the suit schedule properties. During the pendency of the suit defendant No.4 expired on 01-01-2023. These plaintiffs came to know the death of this defendant recently through their advocate. Therefore, they filed above said applications. The LR's of defendant No.4 are necessary parties. Therefore, prayed to allow the application.

Heard

Perused entire case file, The plaintiff filed this suit for the relief of partition and separate possession of the suit schedule properties against the defendants. During the pendency of the suit the defendant No.4 expired. As per the pleading the plaintiffs the defendant No.4 was joint family member. Therefore the LR's of defendant No.4 are necessary parties to the suit. Looking to the nature of the suit and in order to avoid the multiplicity proceedings, the application filed by the plaintiff is dissevers to be allowed by

condoning the delay caused to file the applications. Therefore this court proceed to pass the following,

ORDER

Applications filed by the plaintiffs under order 22 rule 4, 22 Rule 9, R/w 151 of CPC and Sec.5 of Limitation Act are hereby allowed.

The plaintiff is permitted to implead the proposed defendants No.4 (a) to (c) to the suit.

For amendment of plaint and submit the amendment plaint and hearing on I.A.No.17 to 19.

Call on 08-01-2024.

[Smt. P.R.Patil]

II Addl. Senior Civil Judge and JMFC
Hubballi.

COUNSEL FOR DEFENDANT FILED
APPLICATION UNDER ORDER 8 RULE 1
R/W SECTION 151 CPC.

The defendant No.3 in his affidavit submits that he intended get the

O.S. No. 252/2019

documents from concerned authorities, Therefore he could not filed written statement within time. If the application is allowed no hardship are loss would be cause to the plaintiff . If the application is not allowed he will be put hardship and loss. Therefore prayed for allowing the application .

on the other hand plaintiff filed objection to the application and contended that the said application is not maintainable either in law or facts. The defendants sworn false affidavit. After laps of one year the defendant came with the said application. Therefore prayed for dismissed the application.

Heard both side

Perused the application and objection.

The

plaintiff filed this suit for the relief of declaration , declaring that he is absolute owner and further prayed for permanent

injunction. The opportunity has to be given to the defendant to contest the case. no doubt delay is cause to failing of the written statement. The same be condone by imposing cost. If the application is not allowed it will cause multiplicity of the proceeding. Therefore this court proceed to pass the following.

O.S. No. 252/2019

ORDER

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The application filed by the defendant under order 8 Rule 1 of CPC., is hereby allowed on cost of Rs. 100/-.

The written statement and memo is taken on record.

For amendment of plaint and submit the amended plaint.

Call on: 20-01-2021

[N.B. Shaikh]

Addl. Senior Civil Judge and JMFC
Doddaballapura.

O.S. No. 208 / 2016

**ORDER ON APPLICATION FILED BY THE
PLAINTIFF UNDER ORDER 06 RULE 17 OF CPC**

The Plaintiff filed this application for amendment of plaint and sought for following amendment :

AMENDMENT SOUGHT FOR

1. to correct to the measurement and Eastern boundary in the item NO.1 of the schedule property i.e., **“2 acre 20 guntas instated of 1 acre 10 guntas”** **in Sy.No.16/2a.**

2. to correct the Eastern boundaries in Item NO.1 of the schedule property East By: **Sy.No.16/8 measuring 1acre 10 guntas.** Instated of Ramaiah's land

The plaintiff in her affidavit submits that, the property bearing Sy.NO.16/2a measuring only 1 acre 10 guntas but oversight the measurement came to be typed 2 acres 20 guntas. If the said mistake is not corrected it will cause hardship and injury to the plaintiff therefore prayed for allowing the application.

On the other hand defendants counsels said no objection to allow the application.

Heard both sides.

Perused the application as well as affidavit filed by the plaintiff. The plaintiff has filed this suit for the relief of partition and separate possession. In this case the trail is not yet commenced. The plaintiff submits that through oversight the measurement of the property not correctly mention. In this case the plaintiff by way of affidavit submits that, through oversight and

typographical mistake, the error is caused in the plaint. Perused the application and pleading, this Court come to the conclusion that, the said error is only arithmetical error. While drafting the plaint, the measurement of the property is wrongly mentioned. It is well settle position of law that, the amendment has to be liberally considered. If the said application is allowed, no hardship or loss would because to the defendants. On the other hand if the application is not allowed it will cause multiplicity of the proceedings. Moreover, on the technical grounds the case of the plaintiff cannot be thrown-out at threshold. Therefore, this Court come to the conclusion that, the said application is deserves to be allowed, for these reasons and discussions, this Court proceed to pass the following:

ORDER

The application filed by the plaintiff Under Order 6 Rule 17 is hereby allowed.

For amendment of plaint and submit the amended plaint.

Call on.18-08-2020.

[N.B. Shaikh]
Prl. Civil Judge and JMFC,
Hiriyur.

O.S. No. 111 / 2018

**ORDER ON APPLICATION FILED BY THE
PLAINTIFF UNDER ORDER 06 RULE 17 OF CPC**

The Plaintiff filed this application for amendment of plaint and sought for following amendment :

SCHEDULE

To delete the word in para No.9 on 1st line after the word of arose on i.e., “20-12-2017” and insert at the same place “25-02-2018”.

The plaintiff in his affidavit submits that, at the time of filing of the suit by oversight in Para No.9 the case of action date is mentioned as 20.12.2017 instead of 25.02.2018. The above said mistake typographical mistake. The rectification of the error is necessary to prove his case, if the said application is allowed, no

prejudice or inconvenience will be cause to the other side. Therefore prayed to allow the application.

On the other hand, the defendant No.3 and 4 are filed objection and contended that, the said application is very belated stage and not maintainable in law or facts. The proposed amendment is change the nature of the suit and cause of action. The proposed amendment will introduced new cause of action which is not permissible under law and plaintiff No.3 has filed this application to drag the proceedings. The plaintiffs have not made out any reasonable grounds in his affidavit for delaying filing this application. The averments made in affidavit is false. Therefore, prayed to dismiss the application.

Heard both sides.

Perused the application as well as affidavit filed by the plaintiff and objection filed by the defendant No.3 and 4. The plaintiff has filed this suit for the relief of easementary right over the suit schedule property and permanent injunction. In this case the trail is not yet commenced. The plaintiff intended to insert the date of cause of action in the suit. As per contention of defendants if the said application is allowed, the cause of action will be change and it is not permissible in law. As per law the cause of action has to be construed by over all pleading. Even plaintiff not mention the date of cause of action, the case of the plaintiff cannot be defeated on the said ground. In this case the plaintiff by

way of affidavit submits that, through oversight and typographical mistake, the error is caused in the plaint. Perused the application and pleading, this Court come to the conclusion that, the said error is only arithmetical error. While drafting the plaint, the date is wrongly mentioned. It is well settle position of law that, the amendment has to be liberally construed. If the said application is allowed, no hardship or loss would be cause to the

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defendant. On the other hand if the application is not allowed it will cause multiplicity of the proceedings. Moreover, on the technical grounds the case of the plaintiff cannot be thrown-out at threshold. Therefore, this Court come to the conclusion that, the said application is deserves to be allowed, for these reasons and discussions, this Court proceed to pass the following:

ORDER

The application filed by the plaintiff Under Order 6 Rule 17 is hereby allowed.

For amendment of plaint and submit the amended plaint. Call on:

[N.B. Shaikh]
Prl. Civil Judge and JMFC, Hiriyr.

O.S. No. 160/2017

**ORDER ON APPLICATION FILED BY THE
PROPOSED DEFENDANTS NO.5 TO 7 UNDER
ORDER 1 RULE 10[2] READ WITH SECTION
151 OF CPC**

These proposed defendants filed this application with contention that, defendant No.1 to 4 are their brothers. The plaintiff filed this suit for the relief of specific performance of contract in respect of suit schedule property pleaded that, the defendant No.1 to 3 have executed the unregistered sale agreement in favour of plaintiff on 23.11.2009. These proposed defendants contended that, the suit schedule property is ancestral and joint family property of defendants. The defendant No.1 to 3 not having any authority to execute the agreement of sale.

O.S. No.178/2013

**ORDER ON APPLICATION FILED BY THE
PLAINTIFF UNDER ORDER 06 RULE 17 OF CPC**

The Plaintiff filed this application for amendment of plaint and sought for following amendment :

SCHEDULE

In the cause title of the plaint 4th defendant after the word “Smt.” insert the word “Shiva” before “Rudramma”.

The plaintiff in his affidavit submits that, he filed this suit for the relief of specific performance of contract, due to typographical mistake, the schedule mistake was occurred. The said amendment is very necessary to adjudicate this case and this amendment does not affect or create new cause of action or nature of the suit. If the application is allowed, no hardship would be be cause to the other side and if the same is rejected, the plaintiff will be put into great hardship and loss. Hence prayed for allowing the application.

In this case defendants are placed ex-parte.

Heard counsel for plaintiff.

Perused the application as well as affidavit filed by the plaintiff. The plaintiff has filed this suit for the relief of specific performance of contract against the defendant. In this case trial is not yet commenced. At this stage the plaintiff came with the said application. The amendment sought by the plaintiff will not change the nature of the case. The plaintiff by way of amendment intended to insert some word, which are

left out at the time of preparing a plaint cause title. If the said application is allowed, no hardship or loss would be cause to the defendant. In order to avoid the multiplicity of the proceedings, this Court come to the conclusion that, the said application deserves to be allowed. Therefore, I proceed to pass the following:

ORDER

The application filed by the plaintiff Under Order 6 Rule 17 is hereby allowed.

For amendment of plaint and submit the amended plaint.

[N.B. Shaikh]

Addl. Senior Civil Judge and JMFC,
Doddaballapura.