

ORDER ON IA. No.V

The plaintiffs have filed this application under order VI rule 17 read with section 151 of Code of Civil Procedure for seeking permission to amendment directions wrongly mentioned in the hand sketch map as North instead of East, South instead of West, East instead of North and West instead of South in the interest of justice and equity.

On the other hand, the defendant's counsel has filed detailed objection and prayed for dismiss the application with costs.

Heard the arguments and perused the materials on record,

When the case was posted for plaintiffs' evidence on that time the plaintiffs' counsel has filed IA No.V under order VI rule 17 read with section 151 of Indian Penal Code for amendment of hand sketch map. The plaintiffs have stated in the affidavit that the present suit filed by the plaintiffs against the defendant in the form of representatives. Further it is contended that the defendant high handedly constructed house on the public road and further plaintiffs are requested the concerned authority to stop the constructed but the said concerned authorities have not taken the steps against the defendant. Hence, plaintiffs have constrained to file the suit against the defendant by this reason at the time of filing of the suit hurriedly mentioned the wrong boundaries of directions of the suit property. In the present suit, the issues framed and the case was posted for plaintiffs' evidence on that time the plaintiffs' counsel filed the present application. The plaintiffs counsel has relied upon the decision reported in **AIR 2008 SC**

1960 in the case of **Puran Ram Versus Bhaguram and another** the Hon'ble Apex Court has granted **"In a suit for specific performance of contract for sale, it is permissible to amend a part of the description of the suit property not only in the plaint but also in the agreement."** and **AIR 2008 SC 1147** in the case of **Usha Devi Versus Rijwan Ahmad and Others** the Hon'ble Apex Court has granted **"Amendment sought to correct the description of suit property –Prayer for amendment was made at the pre-trial stage-Prayer allowed-The question as which stage constitutes 'commencement of trial', left open."** In my view, the present application is allowed the nature of suit property will not changed. The amendment sought by the plaintiffs is necessary for the purpose of determining the real questions controversy between the parties. If the application is not allowed, it would creates multiplicity of proceedings between the parties. To avoid these things, I proceed to pass the following;

ORDER

IA No.V filed by the plaintiffs under order VI Rules 17 read with section 151 of Code of Civil Procedure is here by allowed with cost of Rs.500/-.

The plaintiffs are hereby permitted to amendment of the wrongly mentioned in the hand sketch map shown by the directions as North instead of East, South instead of West, East instead of North and West instead of South as sought in the application.

For amendment of hand sketch map and to furnish amended hand sketch map by

(Balasaheb Wadavade)
CJ & JMFC, Savanur.