

**IN THE COURT OF THE CIVIL JUDGE AND JUDICIAL
MAGISTRATE FIRST CLASS, SAVANUR.**

PRESENT : **Sri. Shreyansh Doddamani,**
B.Com., LL.B.,(spl)
Civil Judge and JMFC.,
Savanur.

ORIGINAL SUIT NO. 288/2013
Dated this 16th day of July, 2022

PLAINTIFFS: Yusufsab S/o Khasimsab Khandivale
(Since dead by LRs)
1A. Ramejabi W/o Yusufsab Khandivale,
Age : 52 years, Occ : Household work,
R/o : Savanur, Tq : Savanur, Dist : Haveri.

Vs

DEFENDANT: 1. Mahammadgous S/o Abdulrahiman
Dukanadar, Age : Major,
Occ : Business, R/o : Savanur
Tq : Savanur, Dist : Haveri and another.

IA No.XIII

Applicant: Yusufsab S/o Khasimsab Khandivale
(Plaintiff) (Since dead by LRs)
1A.Ramejabi W/o Yusufsab Khandivale,
and others

Vs

Opponent: Mahammadgous S/o Abdulrahiman
(Defendant) Dukanadar and another

ORDER ON IA NO.13

Plaintiff has filed this application under order 6 Rule 17 of CPC for seeking permission to carry out amendment in the plaint.

2. The plaintiff has sworn in an affidavit accompanying with IA No.13, wherein he stated that they have filed this suit against the defendants. The suit schedule properties are belongs to their family. But the defendants by creating false documents got mutated in his name and during the pendency the defendant No.1 illegally transferred in favour of defendant No.2. Therefore, the said sale is not binding to plaintiffs. Therefore, they wants to add said proposed amendment in the plaint as well as in the prayer column of plaint. If not allow the application it will causes hardship to them. Hence, prayed to allow the application.

3. The defendant counsel has filed objections wherein he contended that application is not maintainable in law and facts. The plaintiff has filed this application to drag the proceedings intentionally. The application is barred by limitation. Hence, prayed to reject the application.

4. Heard both the sides.
5. The following points arise for my consideration:

POINTS

- 1) **Whether the proposed amendment is necessary to adjudicate the suit effectively or for determination of the real controversy between the parties?**
- 2) **What order ?**

6. My answers to the above points are as follows:

Point No.1 : In the affirmative.

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

:-REASONS:-

7. **Point No.1 :-** The plaintiff has filed this suit for declaration of title and injunction against the defendants. During the pendency of the suit the defendant NO.1 transferred the suit property by way of relinquishment deed in favour of defendant NO.2. But in the prayer column the plaintiff not claimed the alleged relinquishment deed not binding to them. Therefore to add the said relief it is just and necessary to amendment. Hence, they have filed this application.

8. The plaintiff have filed this application at the stage of defendant evidence. But they have not discloses the due diligence. However, the said fact i.e., proposed amendment is necessary to determination of the real controversy between the parties. If allow the application the nature of the suit will not change. And it will not causes the hardship to the defendants. Therefore in the interest of justice by imposing cost application can be allowed. Hence, I have answered point No.1 **in the affirmative.**

9. Point No.2:- In view of the above discussion, I proceed to pass the fallowing,

ORDER

The I.A. No.13 filed by the plaintiff U/o 6 Rule 17 of Code of Civil Procedure is here by allowed with cost of Rs.500/-.

Plaintiff is permitted to carry out the amendment as per rule 18 order 6 of CPC.

(Dictated to the stenographer, transcribed and typed by her, corrected, signed and then pronounced by me in the Open Court on this the 16th day of July 2022)

CJ & JMFC., Savanur.

