

ORDER ON I.A. NO.VI filed under Order VI Rule 17 read
with Section 151 of CPC.

The present IA.No.VI is filed by Plaintiff No.1(a) under Order VI Rule 17 read with Section 151 of the Code of Civil Procedure, 1908, seeking permission to amend the plaint.

2. In the affidavit accompanying the application it is stated that, after the demise of the original plaintiff, the applicant and other legal representatives have been duly brought on record. It is further contended that the original plaintiff instituted the suit against the defendants for the relief of permanent injunction. According to the applicant, subsequent to the dismissal of the temporary injunction application filed in the suit, the defendants took undue advantage of the said dismissal order, allegedly encroached upon a portion of the suit schedule property, and put up an unauthorized construction towards the western side of the schedule property.

3. In view of these subsequent developments during the pendency of the suit, the proposed amendment has

become highly necessary for a proper and just adjudication of the dispute between the parties. The applicant asserts that the proposed amendment seeking a declaration of absolute title does not alter the fundamental nature or character of the suit, nor is it barred by limitation. It is submitted that there is neither intentional delay nor laches on their part. The applicant contends that if the amendment is not permitted, irreparable loss and hardship will be caused to the plaintiffs, whereas no prejudice will be caused to the defendants. Accordingly, the applicant has prayed to allow the application to incorporate the additional facts and the prayer seeking a declaration that the plaintiffs are the absolute owners of the suit schedule property.

4. The defendants have failed to file their objections despite availing ample opportunity.

5. I have heard the counsel for the plaintiff.

6. The following point arises for this Court's determination:

1. Whether the plaintiffs have made out sufficient grounds to permit amendment of the plaint under Order VI Rule 17 of CPC?
2. What order?

7. My findings to the above points are as follows:

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

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

REASONS

8. Point No.1: The application in hand came to be filed when the case was posted for plaintiff evidence.

9. Order VI Rule 17 of the Code of Civil Procedure empowers the Court to allow an amendment of pleadings at any stage of the proceedings if such amendment is necessary for determining the real questions in controversy between the parties. The dominant object of this provision is to minimize litigation, prevent multiplicity of proceedings, and enable the Court to effectively adjudicate upon the substantive rights of the parties.

10. Upon perusal of the application and the accompanying affidavit, it is seen that the plaintiffs seek to introduce a prayer for declaration of title in respect of the suit schedule property. The applicant contends that subsequent developments during the pendency of the suit—specifically, the alleged acts of encroachment by the defendants—have necessitated this comprehensive relief.

11. It is a well-settled principle of law that amendments intended to bring subsequent events on record and to claim reliefs flowing from such events should be liberally allowed. The proposed amendment pertains to the very same suit schedule property which forms the subject matter of the original suit. Shifting or expanding a suit from a mere permanent injunction to a declaration of title over the same property does not alter the fundamental nature or character of the suit; it merely seeks a larger, comprehensive remedy based on an altered state of facts.

12. Furthermore, regarding the statutory bar under the Proviso to Order VI Rule 17 of CPC, it is noted that the

alleged cause of action for the declaration and the assertion of encroachment arose *after* the institution of the suit and following the dismissal of the temporary injunction application. Therefore, these are subsequent facts that could not have been raised earlier despite due diligence, thereby satisfying the legal requirements even if trial stages are considered.

13. The truth, falsity, or merits of the assertions made in the proposed amendment cannot be deeply scrutinized at this stage and is strictly a matter to be decided during the trial upon the appreciation of evidence. To ensure the legal rights of both parties are fully protected, the question of limitation concerning the relief of declaration is not being concluded here and is kept open to be adjudicated under a specific issue during the final disposal of the suit.

14. However, since the plaintiffs are now introducing a prayer for declaration of absolute ownership, they are bound under the law to value the suit property appropriately for the higher relief. The plaintiffs must file a

fresh valuation slip and pay the requisite differential Court Fee as per the provisions of the Karnataka Court Fees and Suits Valuation Act. Consequently, this Court is satisfied that the proposed amendment is necessary for determining the real controversy involved in the suit and that the ends of justice would be served by permitting the same. Accordingly, **the point No.1 is answered in the Affirmative.**

15. Point No.2: Based upon the observation made herein I, proceed to pass the following:

ORDER

The I.A. No. VI filed by the plaintiffs under Order VI Rule 17 read with Section 151 of the Code of Civil Procedure is hereby allowed on cost of Rs.500/-.

The plaintiffs are permitted to carry out the proposed amendment in the plaint as stated in the application.

The plaintiffs are directed to file a fresh Valuation Slip and pay the

requisite differential Court Fee calculated for the relief of declaration of title.

The question of limitation concerning the amended relief is kept open to be decided at the time of final disposal of the suit.

Hence, for carrying out amendment, for furnishing amended plaint, valuation slip and court fee call on

**Prl., Civil Judge and J.M.F.C.,
Bangarpet.**