

ORDERS ON I.A. No.1

The Counsel for Plaintiff has filed the present I.A No.1 dated 29.10.2026 under Order 6 rule 17 r/w Sec.151 of CPC, praying to permit her to amend the plaint, in the interest of justice and equity.

2. In the Affidavit appended to the said Application, the Plaintiff has sworn stating that, she is the owner in possession of the land bearing Sy.No.58/2, measuring 2 acres of Pichaguntrahalli Village, Masthi Hobli, Malur Taluk. The Defendant has illegally encroached his land in Sy.No.58/2, to an extent of 00.07.04 guntas. The contention of A Schedule Property of 2 acres belongs to her out of it, the Defendant has illegally encroached B Schedule Property which is the part and parcel of A Schedule Property, however in her plaint in the Schedule it is only mentioned as Schedule instead of 'A' Schedule and also boundaries of 'A' Schedule are not properly recited in her original plaint, due to confusion. By oversight in her Plaint the 'B' Schedule Property is not described. By preparing arguments on I.A her counsel has noticed about the absence of 'B' Schedule Property and also wrong boundaries furnished in 'A' Schedule Property, as such he advised her to file this application to rectify the mistake crept in her plaint, in the said mistake is bonafide. Hence, this Application.

3. Per contra, the Defendant Counsel has filed objections to the said I.A. contending that the Application filed by the Plaintiff is frivolous and vexatious and not maintainable either in law or on facts, and is liable to be dismissed in limine. The Plaintiff has sworn into false affidavit in order to cause harm to the Defendant and also misleading the court. The Plaintiff has not pleaded about the due diligent in their affidavit application. The amendment sought by the Plaintiff is very contrary to Sale Deed dated 06.06.2001. The amendment sought in the application is totally false and incorrect. The Plaintiff has not produced any document to support her case.

The Plaintiff has falsely claiming the Property of the Defendant it is not tenable under law and has filed the false application in order to drag on the proceedings. Hence, it is prayed to dismiss the Application with costs.

4. Heard both the Counsels and perused the materials available on record.

5. It is to be seen that, in the present matter, the Plaintiff has prayed to amend the schedule by adding the proposed amendment. It is to be seen that in the Affidavit appended to the said Application, the Plaintiff has not put-forth cogent and proper reasons, in order to grant said relief. Further, the Plaintiff is asking to know permit to change the measurements of the Suit Schedule Property and if the same is permitted, it would amount to changing the identity of the property itself and the property will not be able to be identified at a later stage and hence, the parties will be put to much inconvenience. Now, the the Defendant has already disclosed his defence and now, the Plaintiff cannot asked for amendment, only in order to fill up the gaps and loopholes in is case. Further, no party should be permitted to thrive, at the cost of the other. Further, it is settled principle of law that amendments cannot be granted, when any party apply for the same, to fill the gaps and loopholes in the contention of the said party, be it Plaintiff or the Defendants. No amendment can be allowed, which will nullify the admissions already given by the party or the witness in the cross examination. Hence, on perusal of all of these, it is clear that the Plaintiff is only trying to fill the loopholes and gaps in his case. Therefore, this Court feels that such Applications cannot be permitted. Therefore, this Court is of the opinion that the present Application lacks merits and deserves to be rejected.

6. In view of the above discussions and deliberations, this Court proceeds to pass the following;

ORDER

OS.42/2025

The I.A. No.1 under Order 6 Rule 17 r/w Sec.151 of CPC, is hereby rejected.

For Plaintiff Evidence, call on 09.06.2026.

Sd/-
C/c II-Addl. Civil Judge & JMFC,
Malur.