

ORDERS ON I.A.No.4

The Counsel for Plaintiffs has filed the present I.A No.4 under Order 6 rule 17 r/w Sec.151 of CPC, praying to permit him to amend the Plaint, by including the Application Schedule Amendment, to the Plaint.

In the Affidavit appended to the said Application, the Plaintiff No.6 has sworn stating that, they have filed the present Suit against the Defendants. Originally, the Suit Schedule Properties are ancestral and joint family properties of himself and the Defendants and at the time of filing the Suit, some typical error in the Plaint, it is not intentionally, but for above said bonafide reason and further, but all documents and G-tree and very clear, this mistake is only typical error. Hence, this Amendment is very necessary to prove his case. Hence, it is prayed to allow the said Application.

On the other hand, the Defendant Counsel filed objections to the said I.A.No.4, stating that, the Application filed by the Plaintiffs is not maintainable, since, the parties mentioned in the cause title is wrong and hence, the same is liable to be rejected in limine. The Application filed by the Plaintiff is vexatious, frivolous and mischievous. The Plaintiff has sworn to the false Affidavit and there is utter falsehood in the contention of the Plaintiff. Further, in the cross examination of PW.1 “ ನನ್ನ ವಾದ ಪತ್ರದಲ್ಲಿ ತಾತನ ಹೆಸರನ್ನು ಬಾಣಾರಪ್ಪ ಎಂದು ಕೊಟ್ಟಿರುತ್ತೇನೆ. ನನ್ನ ವಾದ ಪತ್ರದಲ್ಲಿ ನನ್ನ ತಾತನ ಹೆಸರು ನಾಗಪ್ಪ ಎಂದು ಹೇಳಿ ಬರೆಸಿರುವುದಿಲ್ಲ. ನನ್ನ ತಂದೆಯ ಹೆಸರು ಲಕ್ಷ್ಮಯ್ಯ ಅಲಿಯಾಸ್ ಚಿಕ್ಕ ಲಕ್ಷ್ಮಯ್ಯ ಎಂದಾಗಿರುತ್ತದೆ. ನನ್ನ ತಂದೆಯ ಹೆಸರು ಲಕ್ಷ್ಮಯ್ಯ ಅಲಿಯಾಸ್ ಚಿಕ್ಕ ಲಕ್ಷ್ಮಯ್ಯ ಎಂದು ತೋರಿಸಲು ಯಾವುದೇ ದಾಖಲೆ

ನ್ಯಾಯಾಲಯಕ್ಕೆ ಹಾಜರುಪಡಿಸಿರುವುದಿಲ್ಲ.” by seeing the above statement of PW.1, the Plaintiff filed a false and frivolous case. The proposed amendment is against to the admissions given by the PW.1. Hence, the Application is liable to be rejected. After commencement of evidence, no Application for amendment is allowed. To fill up the lacuna, the Plaintiffs filed this false and frivolous Application and drag on the proceedings. Hence, it is prayed to dismiss the present Application.

Heard both the Counsels and perused the materials available on record. The Counsel for Defendants has filed Written Arguments to the said I.A.

It is to be seen that both parties have to be given equal opportunities to put-forth all of their contentions. Further, if the same is not allowed and the Plaintiff is not permitted to amend the Plaint, then the Plaintiff will be put to hassles. Further, if the Plaintiff is not allowed to amend the Plaint, then, it will be difficult to answer all the real questions in controversy. Also, it is to be seen that the said mistakes are clearly typographical errors and if the same is allowed, then, it will not change the nature of the Suit. Hence, it is imperative to allow the said Application. Further, it is to be seen that both parties should be given equal opportunities to put forth their contentions. The rights of the parties should not be curtailed only because of technical reasons and both the parties should be given equal opportunities. Both are entitled to put-forth their contentions. Further, multiplicity of proceedings and delay in dispensation of justice should be avoided. Also, the Defendant Counsel has submitted that the said I.A.No.4 may be allowed on cost. He has no objection for the same. Hence, this Court feels that an opportunity should be given to the Plaintiff to put-

forth all his contentions. Further, the other side will always have an opportunity to rebut the contention of the Plaintiff. Further, it is for the Plaintiff to prove all of his contentions. Hence, for all of the reasons mentioned above, this Court feels that the present Application has merits and deserves to be allowed.

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

ORDER

The I.A.No.4 under Order 6 Rule 17 r/w Sec.151 of CPC, is hereby allowed on cost of Rs.100/-.

For amendment, call on by 04.06.2026.

Sd/-

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