

ORDERS ON IA No.9

The counsel for plaintiffs has filed IA No.4 U/o VI Rule 17 r/w Sec.151 of CPC., seeking to replace name of village as J.Vammasandra in place of Karahalli at 4th line of para No.6 of the plaint.

2. **In an accompanying affidavit, the plaintiff No.1 stated that**, present suit filed for the relief of permanent injunction. Due to typographical error, place of cause of action is wrongly shown as Karahalli instead of J.Vammasandra. The counsel advised to amend to that effect. Proposed amendment will not change the nature of suit and cause of action. Hence prays to allow the application.

3. On the other hand, the learned counsel for defendants filed objections contending that the plaintiffs have obtained an order of injunction by suppressing real facts before Hon'ble District and Sessions Court, Kolar even though OS.No.507/2022 pending before this court this court with respect of very same suit schedule property. The plaintiffs by mentioning Cause of action arose at Karahalli have obtained an order of injunction. Hence contention of the plaintiffs that same is typographical error is incorrect. On all these grounds prays to reject application.

4. Heard the learned counsel for either side and perused the records of the case.

5. The following points arise for my consideration.-

1. Whether the applicant/plaintiff No.1 has made out sufficient grounds to allow IA No.4 filed U/o VI Rule 17 R/w Sec.151 of CPC?

2. What order?

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

Point No.1	:	In the Affirmative
Point No.2	:	As per the final orders, for the following;

REASONS

7. **Point No.1:** Before considering an application for amendment of the plaint filed at IA No.4, it is necessary to consider some back drop facts. The plaintiffs have filed this suit for the relief of partition and instant application is filed when while case posted for hearings on I.A.No.I filed under Order 39 Rule 1 and 2 of CPC.

8. On careful scrutiny of Order VI Rule 17 CPC, it is clear that, the Court may at any stage of the proceedings allow either of the parties to alter or amend their pleadings provided such amendment is just and necessary for the purpose of determining the real question in the controversy between the parties.

9. It is legislative mandate that pleadings can be amended at any stage of the proceedings so as to narrow down the controversy between the parties. However, this rule is subject to the rider that once trial has begun unless it is shown by the parties that, inspite of exercising due diligence, they could not amend the pleadings prior to commencement of trial, such application seeking amendment of pleadings cannot be entertained. Here in this case, the trial is not yet commenced.

10. By way of amendment, the plaintiffs intended to rectify the place of cause of action. As agitated by either parties, there are other suits pending between the parties and at that juncture, the plaintiffs filed this suit before Hon'ble Vacation Judge, Kolar and obtained an order of Ad-interim temporary injunction against the defendants. At this juncture, the Court cannot come any conclusion regarding contention of either parties and same has to be decided by way of full-fledged trial. Hence, hardship if any caused to other side can be met with by imposing reasonable costs by

looking into the stage and year of present suit. Therefore, IA No.4 filed by plaintiff No.1 U/o VI Rule 17 R/w Sec.151 of CPC., deserves to be allowed and accordingly, point No.1 is answered in the **Affirmative**.

11. **Point No.2:** In view of the above reasons, I proceed to pass the following;

ORDER

IA No.4 filed U/o VI Rule 17 R/w Sec.151 of CPC by the plaintiff No.1 is hereby ***allowed*** on cost of Rs.1000/-.

The proposed amendment mentioned in IA No.4 is permitted to be carried out in the plaint.

To carry out amendment and to furnish amended plaint.

Call on: **04.11.2025**

**Prl. Civil Judge & JMFC.,
Mulbagal**