

04.11.2023
Plt by Sri. S.B.A adv
def by Sri. NP adv

ORDERS ON I. A. No. 4

I.A. No. 4 is filed by the Learned Counsel for the Plaintiff under Order 6 Rule 17 read with Section 151 of CPC seeking permission of Court to amend the plaint.

2. The counsel for defendants submitted no objections for present IA .
3. Heard the arguments.
4. Now the following points arise for consideration of this court are.

Point No.1: Whether the plaintiff has made out grounds for allowing I. A. No. 4 and thereby permitting **him** to carry out the proposed amendment as sought for?

Point No.2: What Order?

5. The findings of this court on the above points are as under:

Point No.1: In the Affirmative

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

REASONS

6. **Point No.1** : On going through the proposed amendment and the records it is noted that the plaintiff has filed the present suit for Permanent injunction.

7. In Pirgonda Hongonda Patil vs Shidgonda Patil, reported in AIR 1957 SC 363, the Hon'ble Supreme Court of India has held that,

“The Power under Rule 17 is entirely discretionary to be used judicially on consideration of the circumstances of each case. The rule allows, "at any stage", all amendments which satisfy two conditions (a) of not working injustice to the other side and (b) of being necessary for the purpose of determining the real question in controversy between the parties.”

8. In Jai Jai Manohar Lal vs National Building Material Supply, Gurgaon, reported in AIR 1969 SC 1267, the Hon'ble Supreme Court of India has held that,

“The rules of procedure are intended to be handmaid to the administration of justice. A party cannot be refused relief merely because of some mistake, negligence, inadvertence or infraction of the rules of procedure. The Court always allows amendment unless it is satisfied that there was mala fides or blunder which had caused injury to the other side and which could not be compensated by costs. However negligence or carelessness may have been his omission and however late the proposed amendment may have been sought, it will be allowed if no injustice is caused to the other side.”

09. On keeping the above principles laid down by the Hon'ble Supreme Court of India, it can be concluded as, if application for amendment of pleadings is filed at a belated stage, the said applications cannot be allowed by the Court. But if the amendment sought by the party

is necessary for the proper adjudication of the suit, then the said amendment can be allowed. So, on perusal of the pleading in the present suit, amendment sought is very much required to determine the real question in controversy between the parties. If the above application is allowed, no hardship will be caused to other side. Moreover, every opportunity should be given to the parties to plead their assertions before the Court. To avoid the multiplicity of suits, application needs to be allowed. Hence, in the interest of justice, the above amendment has to be allowed. Accordingly, this court answer **point No.1** in the **affirmative**.

10. **Point No.2:** For the aforesaid discussion on point No.1, this court proceeds to pass the following.

ORDER

I.A. No.4 filed by the learned counsel for the plaintiff under Order 6 Rule 17 read with Section 151 of C.P.C is hereby allowed on cost of Rs.200/-.

The plaintiff is permitted to carry out the amendment as sought for and furnish the amended plaint.

For amendment plaint by 29.11.2023.

Sd\
Addl. Civil Judge & JMFC.,
Mulbagal.