

ORDERS ON I.A.NO - XI

The counsel for the plaintiff has filed this application U/o 6 Rule 17 of C.P.C and praying this court to permit him to amend the plaint as per the proposed amendment mentioned in the application.

2. The plaintiff in his affidavit annexed to this application has stated that he has filed present suit for Declaration and permanent injunction. Due to over sight he could not able to insert material facts in the plaint. Hence, he has filed present application. The proposed amendment will not change the nature of the case nor changes the cause of action. If this application is not allowed much hardship would causes to him. The amendment is necessary to proper adjudication of the suit. Therefore, he has filed present application to amend the plaint as per proposed amendment. Hence, he has prayed to allow the application.

3. On the other hand defendants have filed objection to the present IA and contended that plaintiff has filed present IA at belated stage. There is contrary in boundaries mentioned in the documents and proposed amendment. Hence, prays for dismiss the IA No.XI.

4. Heard arguments.

5. Perused the pleadings of the parties and materials available on record.

6. The following points would arise for consideration,

1. Whether the plaintiff shows that the proposed amendment is necessary for the purpose of determining the real question in controversy between the parties and further shows that in spite of his due diligence he could not able to raised the matter before the commencement of the trial?

2. What Order?

7. My answer 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 plaintiff has filed present suit for Declaration and permanent injunction against the defendants.

9. It is the contention of the plaintiff that due to over sight he could not able to insert correct boundaries to the suit schedule property. Hence, he has filed present application. On perusal of the proposed amendment the plaintiff wants to insert boundaries to the schedule of the property. There is no dispute between the parties with

respect to boundaries and identification of the property. Under such circumstances, amendment is allowed no hardship would causes to the defendants, because, burden lies on the plaintiff to prove proposed amendment. On perusal of the proposed amendment is not working injustice to the defendants. Because, they have every right to conduct cross-examination of plaintiff. Therefore, amendment of necessary for the determine the real questions of the parties. If this application is not allowed it creates multiplicity of proceedings between the parties. It is settled principle that whoever desires any court to give judgment as to any right on the existence of the fact, must prove the those facts is existence, in present case burden lies on the plaintiff to prove the proposed amendment. Therefore, in my opinion plaintiff shows good cause to amend the plaint as per proposed amendment and it is necessary for the purpose of determining the real questions in controversy between the parties. Accordingly I answer point No.1 in the **Affirmative**.

11. **Point No.2:** As per above said discussion Court proceeds to pass the following;

ORDER

I.A.No.XI filed by the plaintiff is hereby allowed with cost of Rs.500/-.

*Plaintiff is hereby permitted to amend the
plaint as per proposed amendment as prayed
in the application.*

*Plaintiff is hereby directed to furnish
amended plaint within 14 days from the date
of this order.*

To file amended plaint by 05.03.2026.

*(DEVARAJU H.R.)
I Addl. Senior C.J. and JMFC,
K.R.Pete.*