

ORDER ON I.A.No.VII

The plaintiff has filed the IA.No.VII U/o 6 Rule 17 of CPC seeking amendment of the plaint as detailed in the application.

2. The plaintiff in the affidavit along with the applications stated that she is the owner of the suit schedule property. The suit schedule property was granted under Mysore District Innam abolishment act by the deputy commissioner on 01.04.1963. Further stated that the suit schedule property is the sy.no. Property. As the defendants illegally trying to construct building the suit schedule property. The present suit is filed. Now after the institution of the suit the defendants as started illegally construction of the building in the suit schedule property. Hence, the amendment sought in the application is necessary. Further stated that if the application is allowed no hardship or injury caused to the plaintiff and it does not change the nature of the suit and cause of action. Hence, prayed to allow the application.

3. The defendant filed objections contending that the amendment would change the nature of suit and cause of action, further denied made in the application. Hence, prayed for the dismissal of the application.

4. Heard arguments.

5. The following points arised for my consideration:

Point no.1: Whether the plaintiff made out grounds to allow IA no.VII?

Point no.2 : What order?

6. My answer to the above points:

Point no.1: In the Affirmative

Point no.2: As per order for the following:

REASONS

7. **Point No.1:** The present suit is filed by the plaintiff against the defendant seeking for permanent injunction. On perusal of the plaint it appears that the plaintiff has filed this suit seeking permanent injunction. It is contention of the plaintiff that after the institution of the suit the defendant illegally started construction of the building in the suit schedule property. On perusal of the amendments sought by the plaintiff it appears that now the plaintiff is seeking for declaration, mandatory injunction and possession. It is pertinent to note that the burden is on the plaintiff to prove his case. Now, on the basis of the subsequent events after the institution of the institution of suit the plaintiff seeking amendment of the plaint. The amendment sought by the plaintiff does not change the nature of the suit as the plaintiff seeking declaration of ownership over the suit schedule property. I am of the opinion that the application deserved to be allowed . Hence, I answer the point no.1 in the Affirmative.

9. Point No.2: In view of the above discussion I proceed to pass the following:

ORDER

I.A.No.VII filed u/o 6 Rule 17 of CPC, by the plaintiff of the plaint as detailed in the application.

To furnish amended plaint by.

**Addl. Civil Judge & JMFC.,
K.R.Pete.**