

KAMD300000902022



ORDER IA No.VIII

The plaintiff has filed an application under Order VI Rule 17 r/w Sec.151 of CPC seeking amendment of plaint as sought in the application.

2. The defendants have filed objections.

3. Heard.

4. Now, the point that arises for consideration of this Court is :

“Whether the plaintiff has made out grounds to permit her to amend the plaint as sought in the application?”

5. On hearing both and perusal of relevant material on record, this court answers the above point in the **Affirmative** for the following:

REASONS

6. POINT No.1:- Along with application, the plaintiff has filed an affidavit sworn to by him. In the said affidavit, it is stated by him that he has filed the

suit for relief of declaration and permanent injunction. Recently he has verified the plaint and came to know that he has wrongly typed the word southern in steaed of northern side in line No. 13 of para 3 and northern side instead of southern side at line No. 15 of para 3 of plaint. This mistake is accrued in the plaint due to inadvertence and typographical error. The amendment is necessary for deciding the real question involved in the suit. The amendment would not change nature of suit and will not introduce any new case. Hence, this application.

7. The defendants on the other hand, in the objections have denied the averments of the application. They have contended that amendment would change the nature of suit and it is filed in order to drag the proceedings. The plaintiff has not led the evidence in spite of several opportunities. Therefore, the very application itself is not maintainable and it has to be dismissed.

8. At the out set, it is pertinent to note the present application is filed before the commencement of trial. Therefore, proviso to order VI rule 17 CPC is not

applicable to the case on hand. The plaintiff by way of amendment wants to replace the word northern by word southern and word southern by northern. The amendment sought by the plaintiff is formal in nature and it does not change the nature of the suit. It would not take away the admission given by any party. Moreover, the defendant would get a chance of filing the additional written statement and he can raise this contention in the written statement and trial. It is also well settled principle of law that while considering the amendment application the court should not go into the correctness or falsity of the proposed amendment and the court should also not consider the contents of the application on merits. Therefore, under these circumstance, in order to avoid the multiplicity of proceedings and put an end to the litigation between the parties finally and completely, the proposed amendment needs to be allowed. Accordingly, **Point No.1 is answered in the Affirmative** and this court proceeds to pass the following:

ORDER

**The application (IA-VIII) filed by
the plaintiff under Order VI Rule 17**

read with section 151 of CPC is hereby allowed.

The plaintiff is directed to amend the plaint and furnish amended plaintiff.

Call on: 2/9/2023.

**(M.C. NANJE GOWDA)
ADDITINAL SENIOR CIVIL JUDGE, &
JMFC., MADDUR.**