

**IN THE COURT OF THE II ADDL. CIVIL JUDGE &
JMFC., AT PANDAVAPURA**

Dated on this the 15th day of March 2024

**:PRESENT:
Smt. Padma M, B.A., L.L.B.,
II ADDL. Civil Judge & JMFC.,
Pandavapura.**

O.S. No.11/2019

Plaintiff : S.B.Ramegowda, dead by Lrs;
(by Sri.HMK, Adv.,)

v/s

Defendants : PDO, Manikyanahalli grama panchayath
(By Sri.SBG, Adv.,)

I.A.No.XII

Applicants : Umesh.M.R. ----- plaintiff No.2
v/s

Opponents : PDO, Manikyanahalli grama panchayath ----- defendant

**ORDER ON I.A. XII FILED UNDER ORDER 6 RULE 17 R/W 151
OF C.P.C**

The plaintiff No.2 has filed I.A. No.XII under Order 6 Rule 17 r/w 151 of CPC sought for amendment in 3rd line in para No.3, page 2 that, by oversight type North-South : '28 feet instead of 38 feet' in the plaint.

2. In support of said I.A., the plaintiff No.2 has filed a affidavit and stated that, the plaintiffs have filed a suit against the defendants for the relief of permanent injunction over the suit schedule property. By oversight in the plaint 3rd line para No.3 page 2 mentioned as North-South '28 feet instead of 38 feet'. Said mistake is typographically mistake. Therefore if not amended the application, it will be hardship to the plaintiffs and said amendment is not change the nature of the suit and cause of action. Therefore prayed to allow the application.

3. On the other hand, the defendant has filed objection and stated that, the said application is not maintainable either in law or on facts. The plaintiffs have sought amended the measurement of the suit schedule property. the plaintiff has not furnished any documents in support of said amendment. Hence, reason assigned in the affidavit not a ground to allow the application. Therefore, prayed to reject the application.

4. Heard the arguments on both sides.

5. The following points arise for consideration of this court:

1. Whether the plaintiff No.2 has made out grounds to allow the application?

2. What order?

6. The above points are answered as under:

Point No.1 : Affirmative

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

REASONS

7. **Point No.1:** I have gone through the pleadings, I.A., objection and documents placed before the court, it is clearly disclosed that the plaintiff has filed a suit against the defendants sought for permanent injunction over the suit schedule property in the year of 2019. Presently, the matter is posted for plaintiffs evidence. At this stage, the plaintiffs have filed this application sought for amended the plaint. In the plaint para No.3 wrongly mentioned the North-South : 28 feet instead of 38 feet. In the para No.3, the plaintiff has submitted that schedule in the plaint that total extent of the suit schedule property is East-West : 35 feet, North-South : 52 feet. Out of that, the plaintiff has constructed the house East-West : 31 feet, North-South : 28 feet. At the time of filing of the suit, the plaintiff by oversight mentioned house measurement North-South : 28 feet instead of 38 feet. Hence, said amendment will not change the nature of the suit and cause of action. In the suit schedule property, the plaintiff has furnished the total extent of the site extent East-West : 35 feet and North-South : 58 feet. On the other hand, the defendant has taken contention that in support of said amendment, the plaintiff has not produced any documents.

8. I have gone through the object of order 6 rule 17 of CPC that, the court should hold an enquiry and tried the suit/case on merits and consequently should allow all the amendments that may be necessary for determining the real question in controversy between the parties provided it does not cause injustice or prejudice to the other side. The rule of amendment is indeed a rule of justice, enquiry and good conscience. The power of granting amendment should be exercised in the larger interest of doing full and complete justice to the parties before the court. In a decision reported in (2005) 13 SCC 89 in between Sajjan Kumar V/s Ram Kishan the

Hon'ble Apex Court held that, incorrect description of property should be allowed to be corrected by amendment to bring the real question in controversy between the parties. Refusal to amend will create complication at the stage of execution. At any stage amendment to correct mis-description is to be allowed. Therefore in the interest of justice and disposal of case on merits, I am of the opinion that the amendment application is deserves to be allowed. Hence, the plaintiffs are made out a ground to allow the application. Accordingly, **this court answers point No.1 in the Affirmative.**

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

ORDER

**IA No.XII filed by the plaintiff No.2 U/O 6
Rule 17 r/w 151 of CPC, is hereby allowed on
cost of Rs.200/-.**

**Plaintiffs shall carry out the amendment
and furnish amended petition within 15 days
without fail.**

(Dictated to the Stenographer, transcribed and computerized by her, corrected, then pronounced by me in the Open Court on this the 15th day of March 2024)

**(Padma.M.)
II Addl. Civil Judge & JMFC.,
Pandavapura.**

Orders pronounced in the open court vide separate orders

ORDER

IA No.XII filed by the plaintiff No.2 U/O 6 Rule 17 r/w 151 of CPC, is hereby allowed on cost of Rs.200/-.

Plaintiffs shall carry out the amendment and furnish amended petition within 15 days without fail.

II ACJ & JMFC,
Pandavapura.