

Order on I.A.No. II

1. The present application I.A.No.II has been filed by the plaintiff U/O 6 rule 17 of CPC praying for an order to permit plaintiff to carryout proposed amendment to his plaint as stated in the application.

2. The application is supported by the affidavit of the plaintiff and it is sworn that the name of defendant No.3 as per records is Boregowda and he has been called in the village as Kumara. It is further sworn that the name of the defendant No.3 has been shown in the cause title as Kumara instead of Kumara @ Boregowda. It is also stated that after filing the suit she came to know that the defendant No.1 has illegally changed the katha in respect of item No.5 of the property in the name of defendant No.3. Therefore the proposed amendment is very much necessary to prove the case of the plaintiff. Hence prayed to allow the application.

3. The defendant No.1 has filed objection to the application and it is stated that the plaintiff should prove the proposed amendment by producing documentary evidence. It is also stated that if the application is allowed, the defendants would be put to irreparable loss and hardship. Hence prayed to dismissed the application with cost.

4. Heard the arguments of counsel for both parties.

5. The points that arise for consideration of this court are as under;

Point No.1. Whether the plaintiff has made out sufficient grounds to permit her to carryout the proposed amendment and the same is necessary to decide the actual dispute between the parties?

Point No.2. What order?

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

Point No.1 :- In Affirmative

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

REASONS

Point No.1:

7. The plaintiff has filed present application to permit her to carry out the amendment as stated in the application. On perusal of proposed amendment, the plaintiff intends to state the another name of defendant no.3, and also intend to state that the defendant No.1 has transferred the katha in respect of item No.5 of schedule property in favour of defendant no.5 which is not binding on the plaintiff and intend to state the Janjar number of 5th item of schedule property. The plaintiff along with the application has produced tax demand extract to show the Jangar number of item No.5 of schedule property as 188. The present application has been filed when the case is adjourned for further examination in chief of PW-1. The plaintiff by swearing the affidavit has stated that she came to know about the facts stated in proposed amendment recently. The proposed amendment will not change the nature of the suit or cause of action. The proposed amendment is very much necessary to decide the actual dispute between the parties.

Hence by considering the reasons stated in the affidavit, the plaintiff should be permitted to carry out proposed amendment to the plaint. Hence for the said reasons this court answers point No.1 in Affirmative.

Point No 2:

8. For the reasons discussed above, this court proceeds to pass the following:

O R D E R

The application I.A.No. II U/O 6 rule 17 of CPC filed by the plaintiff is hereby allowed.

The plaintiff is hereby permitted to carryout the proposed amendment to the plaint and to furnish amended plaint with in 14 days.

For amendment and amended plaint.

Call on: 08.09.2023.

(Dictated to the Stenographer, transcribed by him on computer, revised, corrected and then pronounced by me in the open Court on this the 26th day of August 2023)

**(Sandesh Prabhu. B)
Senior Civil Judge & J.M.F.C
H.D.Kote**