

**ORDER ON I.A.NO.V**

Vide this order I shall dispose off an application filed by the plaintiff under O.6 R.17 r/w Sec.151 of C.P.C. The affidavit has been filed along with application.

2. Brief facts necessary for the disposal of the present application are that the plaintiff filed a suit for declaration of ownership and possession. It is stated that at the time of filing of plaint due to the inadvertence has not mentioned that certified copies of Endorsement dated 31.07.2004, saguvali chit, details of land, survey sketch and Avahalu Thakthe were handed over to the defendant to obtain eclectic connection to the suit property and the same were not returned till this date. The said mistake has been recently noticed by the counsel of plaintiff. In the case on hand it is necessary to seek for the proposed amendment for proper adjudication of the matter. Hence, prayed to allow the application.

3. On the other hand, the defendants have filed reply to the said application.

4. I have heard the rival contention of the parties and have perused the records.

5. On a bare perusal of Order VI Rule 17 CPC, it becomes abundantly clear that wide power has been conferred on the court to allow amendment of the pleadings of a party in such manner and on such terms as it appears to the Court just and proper. It is a well-settled law that

courts should be liberal in granting the prayer for amendment of pleadings unless serious injustice or irreparable loss is caused to the other side and a hyper technical approach should not be adopted. All amendments should be permitted which are necessary for determination of real controversies in the suit.

6. Applying the above stated legal principles to the facts of the present case, I am of the said opinion that the amendment sought by the plaintiff is necessary for a proper adjudication of the present case and to prevent multiplicity of litigation. The plaintiff by way of the present application seeks to add the facts that certified copies of Endorsement dated 31.07.2004, saguvali chit, details of land, survey sketch and Avahalu Thakthe were handed over to the defendant to obtain eclectic connection to the suit property and the same were not returned till this date. In these circumstances, it is clear that the inclusion of the proposed amendment is not going to change the nature of the suit or take away the legal rights of the plaintiff or other defendants. The objections of the defendant that the said documents were not handed over to him cannot be decided at this stage it requires evidence. Therefore it is just and necessary to permit the plaintiff.

7. Furthermore in the case at hand, the suit is at the nascent stage. Hence, the court is of the view that no injustice or prejudice of an irremediable character would be inflicted on the defendant, which cannot be compensated in terms of money.

8. For the delay that has occasioned due to this error, the defendant can be compensated in monetary terms.

9. In the case of Vishwa Nath & Anr. Vs. Chaman Lal Khanna & Anr., AIR 1975 Delhi 117, the Hon'ble High Court of Delhi observed

"The courts do not punish the litigants for the mistakes they make. Courts of law are not Court of penal jurisdiction. They exist for the sake of doing justice".

10. In these circumstances, the application under Order 6 Rule 17 read with Section 151 of Code of Civil Procedure is allowed subject to payment of costs of Rs. 200/- by the plaintiff to the defendant by the next date of hearing. Hence, I proceed to pass the following

### **ORDER**

**I.A. No.V filed by applicant/ plaintiff under order 6 Rule 17 read with section 151 of Civil Procedure Code is hereby allowed on cost of Rs.200/-.**

**For carrying out the amendment and to furnish the amended plaint by 25.06.2021.**

(Dictated to the Stenographer directly on computer, corrected and then pronounced by me in the open court on this the day of 11<sup>th</sup> day of June, 2021)

(NATARAJ YADAV .S)  
Senior Civil Judge & J.M.F.C  
H.D.Kote