

ORDER ON IA No.VI

The plaintiffs have filed this I.A. under Order VI Rule 17 R/w Section 151 of CPC, seeking permission to amend the plaint as detailed below:-

In Page No.5, Para No.14 after the word ಸದರೀ ದಾವೆಗೆ ವ್ಯಾಜ್ಯ ಕಾರಣವು ವಾದಿಗಳಿಗೆ ತಮಗೆ ಬರಬೇಕಾದ ಭಾಗಾಂಶವನ್ನು “ ಮೊದಲನೇ ವಾರದ ಜನವರಿ - 2018 ರಂದು” ಕೇಳಿದಾಗ.

2. In the affidavit annexed to I.A No.VI sworn into by the plaintiff No.1 has contended that plaintiffs have filed the present suit against the defendants seeking for the relief of partition and separate possession with respect to the plaint schedule property and the above case is posted to hear. The said mistake was not intentional, but due to typographical error. Hence it is just and necessary to amend the plaint as mentioned in the accompanying application. The said amendment of the plaint is necessary for proper adjudication of the matter in controversy and clinch the matter and dispute between the parties to lis. The amendment neither change the cause of action, nor nature of suit. If the application is not allowed, plaintiffs will be put to hardship and injury. On the other hand, no hardship will be caused to the other

side, if the application is allowed. Accordingly, the plaintiff No.1 has prayed to allow the IA No.VI.

3. In spite of sufficient opportunity, the defendants have not filed any objection to the said application.

4. Heard and perused the materials available on record.

5. The following points that arise for my consideration are as under :

1) Whether the plaintiff No.1 proves that, the proposed amendment is just and necessary for the purpose of determining the real question in controversy between the parties?

2) What order?

6. My answer to the above points are as under :

Point No.1 : In the Affirmative

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

REASONS

7. As could be seen from the records, the plaintiffs have filed the present suit against the defendants seeking for the relief of partition and separate possession with respect to the plaint schedule property. By filing the present application, the plaintiff No.1 is intending to amend the plaint as follows:-

In Page No.5, Para No.14 after the word ಸದರಿ ದಾವೆಗೆ ವ್ಯಾಜ್ಯ ಕಾರಣವು ವಾದಿಗಳಿಗೆ ತಮಗೆ ಬರಬೇಕಾದ ಭಾಗಾಂಶವನ್ನು “ ಮೊದಲನೇ ವಾರದ ಜನವರಿ - 2018 ರಂದು” ಕೇಳಿದಾಗ.

8. It is pertinent to mention here that the proposed amendment is necessary for effective adjudication of the matter between the parties and same will not prejudice the defendants, nor it will change the nature of the suit. Considering the submission of plaintiffs' side counsel and also in view of the fact that none of the defendants have filed their objection to the instant I.A., in my considered view, the proposed amendment is consequential in nature and no loss or hardship will be caused to the defendants if this application is allowed. In this suit trial not yet commenced and also nature of the suit is partition and separate possession. Hence in my considered view, the proposed amendment is just and necessary for the purpose of determining the real question in controversy between the parties. With these observations, point No.1 is answered in the affirmative.

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

ORDER

IA No.VI filed by the plaintiff No.1
under Order VI Rule 17 R/w Section 151
of CPC., is hereby allowed.

The plaintiff No.1 is permitted to carryout amendment as sought in this I.A.

To carryout the amendment and to file amended plaint by 16-10-2020.

**Addl. Civil Judge & JMFC.,
Hunsur.**