

**ORDERS ON IA NO.4 FILED BY THE PLAINTIFFS U/O 6 RULE  
17 R/W SECTION 151 OF CPC**

**1.** The plaintiffs have filed the present suit for the relief of perpetual injunction as against the defendants.

**2.** When the case was at the stage of cross examination of Dw.1, the plaintiffs have filed the instant application praying this court to allow them to carry out the amendment in the plaint so as to seek the relief of declaration their title over the suit property in the plaint.

**3.** In the affidavit annexed to the application it is averred that the plaintiffs have filed the present suit seeking the relief of perpetual injunction. It is averred that the suit property was originally belonged to one Mr.Chikkappugowda, who had three children namely the defendant No.1 herein, one Mr.Bommegowda and vendor of the plaintiff namely Mr.Swamygowda. It is averred that the suit property had fallen to the share of Mr.Swamygowda and he was the absolute owner and possessor of the suit property. It is averred that subsequently said Mr.Swamygowda S/o Chikkappugowda has sold the suit property to the plaintiffs and the plaintiffs have purchased the suit property from said Mr.Swamygowda after verification of all records in respect of the suit property. It is averred that ever since from the date of its purchase, the plaintiffs are in peaceful possession and enjoyment of the suit property as its absolute owners by mutating the suit property to their name. It is averred that since the defendants

have caused interference to their peaceful possession over the suit property, the plaintiffs have filed the present suit as against the defendants for the relief of bare injunction. It is averred that since the plaintiffs have purchased the suit property under the registered sale deed, they are intending to seek the relief of declaration of title. It is averred that the proposed amendment is very much necessary to resolve the real dispute involved between the parties. The proposed amendment will not take away the defence of the defendants. If the application is allowed no hardship will be caused to the defendants and the proposed amendment will also not change the nature of the suit. If the proposed amendment is not allowed, then it will lead to the multiplicity of proceedings. Hence on the above grounds the plaintiffs have prayed to allow the application.

**4.** The application was objected by the defendants by filing their objection by contending that the application filed by the plaintiffs is not maintainable under the law. The reasons assigned in the accompanying affidavit is not just and proper. The defendants have contended that the plaintiffs are not diligent in prosecuting this suit. It is only after the commencement of the trial the plaintiffs have filed the present application at this belated stage with an intention to further drag on the matter. The proposed amendment sought by the plaintiffs in the instant application is not proper. The defendants have contended that if the proposed amendment is allowed then the nature of the suit will be changed. With these objections the defendants have sought for dismissal of the application.

**5.** Heard both the sides on IA No.4. Perused the records. The

following points arises for my consideration:

**Point No.1:** Whether the plaintiffs have made out a valid grounds to allow the application?

**POINT No.2:** What order?

**6. My answers to the above points are as hereunder:**

**Point No. 1:** In the Affirmative

**Point No. 2:** As per my findings on point No.1 for the following:

**REASONS**

**7. POINT NO.1:** Plaintiffs have filed the present suit for the relief of perpetual injunction as against the defendants. After their appearance in this suit, the defendants have filed their written statement by denying the title of the plaintiffs over the suit property. The defendants have contested the suit by denying the title of the plaintiffs over the suit property. Hence, since the defendants have denied the title of the plaintiffs over the suit property, the plaintiffs are now intending to convert the present suit for injunction simplicitor into a comprehensive suit for declaration of title.

**8.** Further, at para No.11 of their written statement, the defendants have taken up the specific defence that the present suit for bare injunction without seeking the relief of declaration of title is not maintainable. In this suit, the title of the plaintiffs over the suit property is in serious dispute. The present suit being one for injunction simplicitor, this court cannot go into the question of title of the plaintiffs, unless the plaintiffs converts the present suit

into a comprehensive suit for declaration of title. Moreover, even the defendants have also taken up the contention that the present suit is not maintainable without seeking the relief of declaration. There is no bar under the law to convert the suit for injunction simplicitor into a comprehensive suit for title when there is no serious dispute regarding the title of the plaintiffs over the suit property. Hence, there is no impediment in allowing the plaintiffs to convert the present suit one for comprehensive suit for title by amending the plaint. However, the delay caused by the plaintiffs in filing the instant application cannot be ignored. Delay in filing the application itself cannot be a ground to reject the application. However, the delay caused by the plaintiffs can be adequately compensated by imposing costs. Further, this court being the trial court, full opportunity has to be given to the plaintiffs to properly put forward their cause. The proposed amendment will not change the nature of the suit. Furthermore, the defendants will also get the opportunity to cross examine the plaintiffs on the proposed amendment. Hence, no prejudice will be caused to the defendants if the application is allowed. Hence, in view of the above there is no impediment to allow the instant application. Therefore, in order to avoid multiplicity of proceedings and also in order meet the ends of justice, the present application deserves to be allowed. The delay caused by the plaintiffs in filing the instant application has to be compensated by imposing costs. Accordingly **point No.1 is answered in the Affirmative.**

**8. POINT NO.2:** In view of my foregoing findings and discussions on Point No.1, I proceed to pass the following:

**ORDER**

IA No.4 filed by the plaintiffs U/o 6 rule 17 R/w Section 151 of CPC is hereby allowed on costs of Rs.1,000/-.

Plaintiffs are permitted to carry out the necessary amendment in the plaint as sought for in the I.A.No.4.

To pay the costs, carry out the amendment and to furnish the amended plaint.

Call on:04.04.2025.

**ADDL. C.J & JMFC,  
K.R.NAGAR**