

ORDER ON IA.No.XI

This application is filed by the plaintiff seeking amendment of plaint by inserting the following proposed amendments.

1. That after para No.6 of the plain insert the para No.6(a) as “That during the pendency of this suit that in the northern portion of the schedule property a road has been formed by the defendants. The road is situated in the land belongs to the plaintiff.

2. In para No.8 of the plaint in the 10th line after the words court costs insert the sentence, “dismantal or destroy the road formed by the defendants in the northern portion of the suit schedule property by way of Mandatory injunction”.

2. In the accompanying affidavit, it is mentioned that the proposed amendment will not alter the nature of suit and no new cause of action will be arised and altogether no new case is going to be introduced and no prejudice will cause to the other side, if the same is allowed. Hence prayed to allow the application.

3. On the other hand the defendant No.1 has filed objections stating that through the present application the plaintiff is introducing new cause of action trying to alter the nature of the suit. Therefore the suit is not maintainable. In the accompanying affidavit the plaintiff has not made any grounds to allow this application. The present application is filed with an intention to

protract the proceedings. Hence prayed to dismiss the application.

4. Heard learned counsel for the plaintiff.

5. Under such circumstances, the following point does arise for my consideration;

“Whether the application filed u/O VI Rule 17 r/w Section 151 of CPC is deserves to be allowed?”

6. My finding to the above point is in the **“Affirmative”** for the following;

REASONS

7. This suit is instituted for permanent injunction. It is the arguments of the plaintiff that during the pendency of the suit the defendants have formed the road on the Northern portion of the suit property which belongs to the plaintiff. The case of the plaintiff is that suit property is given to him after the acquisition of Sy.No.183, 184 and 185 by Government, the PDO of Periyapatna issued the suit property. It is the further contention that the defendants are trying to dispossess him and during the pendency of the suit alleged formation of the road in the northern portion of the suit property was conducted by the defendants. Therefore the plaintiff has to prove his case by seeking necessary reliefs. In this case the plaintiff evidence is not yet commenced, therefore by allowing the IA no hardship will be caused to the defendants as the proposed amendment will not change the nature of suit. Therefore, I proceed to pass the following;

ORDER

The I.A.No.XI filed by the plaintiff u/O VI Rule 17 r/w Section 151 of CPC is hereby allowed on cost of Rs.500/-.

The plaintiff is permitted to carryout the amendment of plaint. For amendment and amended plaint by 02.01.2024.

Sd/-

**Addl. Civil Judge and JMFC.,
Periyapatna.**