

Heard on I.A No.IV from
both parties.

For orders.

ORDER ON I.A.IV

The applicant/defendant has filed I.A.IV under order VI Rule 17 of C.P.C seeking permission to amend the W/s.

2. The defendant/ applicant has sworn to an affidavit and stated that, plaintiff has filed suit against him for the relief of declaration to declare that, plaintiff is the manager of her HUF, as such she is the owner of suit properties and for the consequence relief of permanent injunction to restrained the defendant from causing interference with respect to suit 'A' property and for the relief of mandatory injunction to direct the defendant to remove the borders deposited in the pits in the suit 'B' property and to deliver the vacant possession of the property to the plaintiff. The applicant contended that due to oversight, omission or clerical mistakes in the W/s at Page No.3 in Para No.12 in Line No.13 the suit 'A' property is wrongly written as suit 'B' property as such it is just and necessary to delete the word suit 'B' property on substituting the same by adding suit 'A' property in the W/s. Hence, it is just and necessary to get

amended the W/s in this suit as stated in the accompanying application. If the said application is allowed, no any harm or loss will be caused to plaintiff. Hence prays to allow the said application.

3. The plaintiff seriously resisted the present application and filed objection stating that, in order to fill up the lacuna of defence and to dodge the time and to prolong the matter, the applicant has filed the present application. As such the present application is not maintainable in the eyes of the law and the same is liable for dismiss in limine and accordingly there is no force in the present application and same has to be fail. Hence, prays to dismiss the application.

4. Heard the arguments.

5. The only point that arise for my consideration is:

1) Whether the I.A.IV filed by the plaintiffs is deserves to be allowed”

2) What order?

6. My answer to the above point is In the affirmative for the following:

REASONS

7. Admittedly, this suit is filed against him for the relief of declaration to declare that, plaintiff is the manager of her HUF, as such she is the owner of suit properties and for the consequence relief of permanent injunction to restrained the defendant from causing interference with respect to suit 'A' property and for the relief of mandatory injunction to direct the defendant to remove the boarders deposited in the pits in the suit 'B' property and to deliver the vacant possession of the property to the plaintiff. The applicant contended that due to oversight, omission or clerical mistakes in the W/s at Page No.3 in Para No.12 in Line No.13 the suit 'A' property is wrongly written as suit 'B' property as such it is just and necessary to delete the word suit 'B' property on substituting the same by adding suit 'A' property in the W/s. Hence, it is just and necessary to get amended the W/s in this suit as stated in the accompanying application. Order 6 Rule 17 of CPC confers power on the court to amend the pleadings at any stage of the proceedings, allow the amend the pleadings in such manner and on such terms as may be just and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties. The proviso therein restricts that power after

commencement of the trial. As per the proviso no application for amendment of pleadings shall be allowed after commencement of the trial, unless the court records a finding that inspite of due diligence, the party could not have sought. In this matter evidence of defendant is not commenced So, if the application is allowed, no hardship will cause to the defendant. Accordingly, I proceed to pass the following:

ORDER

I.A.IV filed by the defendant/ applicant under Order 6 rule 17 of C.P.C is hereby allowed on cost of Rs.100/-.

The defendant is permitted to delete the word suit 'B' property on substituting the same by adding suit 'A' property in the W/s as prayed for.

For amendment of W/s.
and to furnish amended W/s.

Call on : 15.07.2024.

[Shyam Prakash]
Civil Judge & JMFC.,
T.Narasipura..