

O.S No.319/2022

Counsel for plaintiff
and learned AGP present.

Heard on I.A No.II
from both sides.

For orders.

ORDER ON I.A.II

The applicant/plaintiff has filed I.A.II under order VI Rule 17 of C.P.C seeking permission to amend the plaint.

2. The plaintiff has sworn to an affidavit and stated that, she has filed suit against defendants to declare that her name is Smt. Puttamma H.C, and her name is erroneously entered in her children school records further it is alleged that due to oversight or omission the name of her children are not added in the cause title of plaint as such it is necessary to add her children by name Bharath and Kirthana in the cause title of plaint. Hence, it is just and necessary to get amended the plaint in this suit as stated in the accompanying application. If the said application is allowed, no any harm or loss will be caused to them. Hence prays to allow the said application.

3. The defendant No.3 to 7 have appeared through learned AGP and filed objection to the present application and stated that, the plaintiff has filed this application to harass them and to delay in proceedings

with this case. In view of the nature of the suit and prayer of the suit the children of the plaintiff are misjoinder of the suit. As such the present application is not maintainable in the eyes of the law and the same is liable for dismissal in limine and accordingly there is no force in the present application and same has to 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.II 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 by the plaintiff for the relief of declaration to declare that her name is Smt. Puttamma H.C, and her name is erroneously entered in her children school records further it is alleged that due to oversight or omission the name of her children are not added in the cause title of plaint as such it is necessary to add her children by name Bharath and Kirthana in the cause title of plaint. Hence, it is just and necessary to get amended the plaint 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 parties are 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.II filed by the plaintiff
under Order 6 rule 17 R/w.
Section 151 of CPC is hereby
allowed.

The plaintiff is permitted
to add her children i.e., Bharath
and Kirthana as plaintiff No.2
and 3 in the cause title of the
plaint.

O.S No.319/2022

For amendment of plaint
and to furnish amended plaint.

Call on : 29.06.2024.

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