

Date: 02-08-2021.

**ORDER ON I. A. No-1 .**

1. That, the plaintiffs/petitioners have filed the application under Order VI Rule 17 R/w Section 151 of Code of Civil Procedure, with a prayer to carryout the following amendments in their plaint.

**Proposed amendments:-**

In the cause title – the defendant No.5 may be deleted.

1. The para No.10 is to be deleted and it is place the following para is to be added as:-
2. The petitioner has filed Indigent suit i.e., Civil Misc No.49/2016,but, later on it was not pressed by the petitioner and accordingly court fee paid is Rs.325/- on the claim amount of Rs.8,40,000/- vide challan No. CR0918003000045677 dated:- 05.09.2018, as the section 21 of KCF and SV Act, which is sufficient.

**2.** That, the plaintiff No.2 in his affidavit has contended that due to lack of knowledge, he filed the present suit in the from of indigent person and later on, he came to known that he being an employee of KSRTC – working as conductor is not entitled to file the present suit as an indigent person and in view of the same he got withdrawn the Civil Misc No.49/2016 as not pressed and in veiw of the same the defendant No.5 is not a necessary party to the suit and hence, it is necessary to delete his name from cause title. That, the plaintiff No.2 has further pleaded that after withdraw of the said petitoin he had remitted a sum of Rs.53,325/- as a Court fee as per the provisions of section 21 of KCF and SV Act and in view of the same it is very much necessary to incorporate the alleged para.

**3.** That, the defendant No.4/respondent refucting all contentions of the plaintiffs/petitioners filed his objections to said application and pleaded that the plaintiff No.1 has falsely contended in his affidavit that

he is a coolie but, he is working in KSRTC as a conductor and hence, it is necessary to take action against him and the crime and justice should not be allowed to go hand in hand. That, the defendant No.4 has further pleaded that the present application is not maintainable either in law or on facts and hence, the same is liable to be rejected.

**4.** That, I have heard the arguments and perused the materials placed on record. That, the following points arise for My consideration and determination:-

1. Whether the plaintiffs/petitioners have made out the grounds that, the alleged amendments are necessary for determining the real controversy between the parties.?

2. What order?

**5.** That, My answer to the aforesaid points are as under:

**Point no. 1:** In the **AFFIRMATIVE**

**Point no. 2:** As per the final order for the

following:-

**REASONS**

**6. Point No.1:** That, the petitioners have contended that due to lack of knowledge they have filed the suit as an indigent person and later on, they came to know that the plaintiff No.1 being a KSRTC employee cannot institute the suit as an indigent person and they have got withdrawn the said misc. petition as not pressed and in view of the same it is very much necessary to delete the name of defendant No.5 from cause title of the plaint and also to add the alleged para about payment of Court fee.

**7.** It is pertinent to note here that, all amendments ought to be allowed which satisfy the two conditions:-

- a. not working injustice to the other side.
- b. of being necessary for the purpose of determining the real questions in controversy between the parties.

It is significant to note here that, the rules of procedure are intended to be a handmaid to the administration of justice. That, a party cannot be refused relief merely because of mistake, negligence, inadvertance or infraction of the rules of procedure. That, the power of granting amendment should be exercised in the larger interest of doing full and complete justice to the parties before the court and it should be liberally allowed as procedured obstacles shall not impede dispensation of justice.

- 8.** It is pertinent to note here that, in present case when the plaintiffs have got withdrawn the civil misc. No. 49/2016, it becomes necessary to get delete the name of defendant No.5 from the cause title of the plaint. It is further pertinent to note here that, the plaintiffs have already remitted the Court fee. That, if the plaintiffs are permitted to add in their plaint the para about the payment of Court fee then no prejudice would be caused to other side. That, the alleged

amendment neither changes the nature of the casee nor causes injustice to other side. Hence, without much discussion, point No.1, is answered in the **AFFIRMATIVE.**

**9. Point No.2:** That, as discussed on Point no. 1, I proceed to pass the following :-

**ORDER.**

That, the application filed by the petitioners/ plaintiffs under Order VI Rule 17 R/w Section 151 of Code of Civil Procedure, is hereby allowed on costs of Rs.300/-.

That, the plaintiffs/petitioners are permitted to carryout the alleged amendment and file amended plaint on 12.08.2021.

( Directly dictated to the typist on computer, corrected by me and then pronounced in the open Court on this 02<sup>nd</sup> day August of 2021.)

(Smt. Hema Pastapur)  
I Addl.Sr.C J & JMFC-I Raichur.