

IN THE COURT OF THE II ADDL.CIVIL JUDGE & J.M.F.C.,
AT KANAKAPURA.

Present: Sri. Krishnamurthy.N., *B.A., LL.B.*,
II Addl. Civil Judge & JMFC,.
Kanakapura.

Dated: This 20th day of February 2021

O.S. No. 12/2021

Plaintiff/s : Smt. Kumari

-V/S-

Defendant/s: : Smt. Saraswathi and Another

I.A. No.II

Applicant/s : Smt. Kumari
Plaintiff/s W/o Revanna
Aged about 62 years,
R/a: No. 26, Basava Layout,
Bayalu Basava Temple Road,
Komaghatta BDA Complex Road,
Bangalore-60.

(By Sri. Lakshamma.H.P, Adv.)

//Vs.//

Opponent/s: 1. Smt. Saraswathi
Defendant/s W/o A.M. Raju
Aged about 60 years,

2. Sri. Vinod Raj.R
S/o A.M. Raju
Aged about 33 years,

Both are R/a:
Angadi Beedi,
Harohalli Village,
Harohalli Hobli,
Kanakapura Taluk,
Ramanagara District.

(By Sri. Sathish.M.V, Adv.)

ORDERS ON I.A. NO. II UNDER ORDER VI RULE 17 OF CPC
FILED BY THE PLAINTIFF

The plaintiff has filed this instant I.A. No. II under Order VI Rule 17 of CPC seeking proposed amendment sought to be inserted para 5(a) 5(d) in the plaint and also prayer column a.1 as additional prayer in respect of mandatory injunction, by way of insertion, for the reasons stated in the accompanying application.

2. Smt. Kumari wife of Revanna, the plaintiff sworn affidavit stating that after filing of present suit defendants raised construction work thereby put up pillar and paya therefore the proposed amendment becomes necessary to adjudicate the matter effectively. Otherwise she would be put to harsdship and in justice.

3. In opposing said application, the defendants filed objection statement contending that plaintiff has come up with this application suppressing real facts only with an intention to cause harassment the defendants and to drag on the proceedings and hence application liable to be rejected. It is further stated that the belated application

does not survive for consideration as no valid reasons are assigned in considering said application. The defendant per contra, alleging other allegations, adopting written statement to be read as objection to the same prays to dismiss the application with cost.

4. Heard the counsel for the plaintiff and perused material placed on record.

5. Now the points would arise for my consideration is as follows:-

1. *Whether the plaintiff has made out grounds that proposed amendment would be necessary for adjudication the matter in question effectively, hence, liable to be allowed?*

2. *What Order?*

6. My answer to the above points as follows.

Point No.1: In the Affirmatively

**Point No.2: As for the final order
for the following;**

REASONS

7. **Point No.1:** It is stated that after the filing of the present suit the defendants have allegedly raised construction by putting up pillar and paya and therefore it is just and necessary to be impleaded the proposed amendment sought to be inserted in the plaint. Consequently relief of mandatory injunction also claiming by way of insertion in the prayer column.

8. The said application is resisted by the defendant filing objection statement. It is to be noted that the suit of the plaintiff initial for injunction. The defendants disputed the claim made by the plaintiff by way of written statement. The case is still at free trail stage and evidence is to be conducted however it is settled that amendment at pre-trial stage is a general rule and its rejection is an exception. Therefore, the court is of the opinion that in order to avoid multiplicity of proceeding the amendment sought to be proposed becomes necessary so as to adjudicate the matter effectively and thus since it is just and necessary application needs to be allowed. Hence, I answered **Point No.1** in the **Affirmatively**.

9. **Point No.2:** Hence, I proceed to pass following.

ORDER

I.A. No. II filed under Order VI Rule 17 of CPC by the plaintiff is hereby allowed.

Plaintiff shall carry out amendment as prayed for and furnish amended written statement.

No order as to costs.

(Dictated to the Stenographer, transcribed and computerized by her, then corrected and pronounced by me in the Open Court on this 20th day of February, 2020)

**II Addl. Civil Judge & JMFC.,
Kanakapura.**