

ORDERS ON IA.NO.5

Sri. GKS, advocate for plaintiff has filed IA.No.5 U/O 6 Rule 17 CPC with a prayer to permit the plaintiff to amend the plaint by adding additional prayer at prayer column.

The defendants didn't file any objections to the present application.

Heard and perused.

Perused the contents of affidavit annexed to the present application and documents and also plaint averments.

Admittedly the plaintiff has filed the present suit against the defendants for permanent injunction in respect of suit schedule property.

It is well settled principle of Law that in a civil suit as per Order 2 Rule 2 of the Code of Civil Procedure mandates that every suit should include the whole claim. For more convenience it is necessary to narrate

Under Order 2 Rule 2 of CPC as under:

Under Order 2 Rule 2. Suit to include the whole claim:

Under Order 2 Rule 2(1):- Every suit shall include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action; but a plaintiff may relinquish any portion of his claim in order to bring the suit within the jurisdiction of any Court.

The object of Order 2 Rule 2 of the Code is two-fold. First is to ensure that no defendant is sued and vexed twice in regard to the same cause of action. Second is to prevent a plaintiff from splitting of claims and remedies based on the same cause of action. The effect of Order 2 Rule 2 of the Code is to bar a plaintiff who had earlier claimed certain remedies in regard to a cause of action, from filing a second suit in regard to other reliefs based on the same cause of

action. It does not however bar a second suit based on a different and distinct cause of action. Under such circumstances, the proposed amendment is necessary for the plaintiff to get all remedies in one suit and also to avoid further litigation between the parties and more over the same will not cause any prejudice to the defendants as they are not at all surprised with the proposed amendment. The nature of the suit will not be changed by virtue of proposed amendment. However, the plaintiff through the proposed amendment intends to add prayer in the plaint in continuation to the existing claim/prayer. Since the plaintiff has approached the court with some relieves as such, it is on the plaintiff to plead and prove about the pleadings on which he is claiming the relieves. While allowing this application, no harm or injury would be caused to the defendants and it will not amount to retraction of any admissions. Under such circumstances, the proposed amendment will

not cause any prejudice to the defendants as they will get every opportunity to cross examine the plaintiff in this regard as well. The nature of the suit will not be changed by virtue of proposed amendment. Hence, viewed from this angle, plaintiff has made out grounds for allowing the application. By considering the facts and circumstances of case. I proceed to pass the following :

ORDER

IA.No.5 filed by the plaintiff U/O 6 Rule 17 of CPC is hereby allowed on cost of Rs.300/-.

The plaintiff is permitted to amend the plaint as prayed in the application and shall furnish amended plaint.

Call on 03.09.2025

Sd/-

**Prl., Civil Judge & JMFC.,
Kanakapura.**