

KARN320018502018



**THE COURT OF PRL CIVIL JUDGE AND JMFC,
KANAKAPURA**

Present:

**Sri. Suresh Annappa Savadi, B.A., LLB., (Spl.)
Civil Judge & JMFC, Kanakapura
O.S.No.376/2018**

Dated this the 11th day of August 2022

PLAINTIFF:

1. Smt. Jyothi C.P.

-Versus-

DEFENDANTS:

1. Smt. Saraswathi and others

PARTIES ON I.A.V

APPLICANT:

Plaintiff

1. Smt. Jyothi C.P.

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

-Versus-

OPPONENTS:

Defendants

1. Smt. Saraswathi and others

(By Sri. S.D., Adv.,)

ORDERS ON I.A.No.V

The plaintiff filed an application U/O 6 rule 17 r/w section 151 of CPC to amend the plaint by inserting the Para No.3(a) and also insert the prayer.

2. In the affidavit contended that the plaintiff is in lawful possession and enjoyment of the suit schedule property. The plaintiff has purchased the suit schedule property from one M. Shivashankar through registered sale deed dated 12.12.2012 and same is mutated and E-khata has also been made out in her name and its PID No.23-506-162. Later the plaintiff came to know that the defendant No.1 sold her property in favour of the defendant No.2 in colluding with one K.L Sunil Kumar has been created and concocted Rectification Deed dated 30.01.2018 by mentioning the similar boundary of suit property of the plaintiff. The said Sunilkumar has sold his another property bearing Municipal khata No.6182/5662 measuring East-West:30 ft, North-South:40 feet in favour of the defendant No.1 under a sale deed dated 09.06.2000. Later the defendant No.1 sold her property in favour of defendant No.2 under the sale deed dated 15.12.2017 by mentioning the plaintiff's

property PIDNo.23-506-162. The Town Municipality issued an endorsement stating that said PID No.23-506-162 will not tally to the property of the defendant and it is also stated in the said endorsement that the said PID No.23-506-162 mentioned by defendant No.1 is the PID number of plaintiff property and later the rectification deed was executed on 30.01.2018 by showing the wrong boundaries and the said document is declared as nul and void. With these set of contentions it is necessary to amend the plaint by inserting para No.3(a) and also amend the prayer column and insert the relief of declaration. Hence prays to allow the application.

3. On the other hand the defendant filed her objections and contents of the affidavit has denied and contended that only to drag on the matter filed this application and there is no valid reasons to file this application and nature of suit is changed. Under such circumstances amendment cannot be allowed and also contended that only to harass the defendant the plaintiff filed this suit and there is no valid reasons to allow the application. With these set of contentions prays to reject the application.

4. Heard the both sides.

5. After going through the entire materials available on record, the plaintiff filed this suit for bare injunction against the defendants in respect of the property bearing Khatha No.8310/7016(Old No.6065/4981/5) measuring 30X40 feet and boundaries of the said property is East by: Property of Jagadisha, West by: Property of Narasimhanna, North by: Municipality Road and South by: Municipality Road and its PID No.23-506-162 wherein the plaintiff is the absolute owner of the same and the plaintiff contended that the defendant No.1 executed the sale deed in favour of the defendant No.2 by mentioning the property of the plaintiff ie., PID NO. 23-506-162 but the khata number was differ and the boundaries also differ. Though the defendant denied the title of the plaintiff as per the written statement but she stated that the defendant' property is K.No.6182/5662 and the present suit property is entirely different ie., 8310/7016 and boundaries also changed. As per the records the plaintiff filed this suit for bare injunction but now the present application for amendment seeking the relief of declaration of title over the suit property and

also seeking the sale deed executed are nul and void the said sale deeds not binding on the plaintiff. After going through the entire amendment, the said amendment will change the nature of the suit. Hence under such circumstances, this court is of the opinion that the alleged amendment will not help to the case of the plaintiff and its entirely different. Hence, this court proceed to pass the following;

ORDER

The I.A.No.V filed by the
plaintiff under Order 6 rule 17 r/w
Sec.151 of CPC hereby rejected.

No order as to cost.

(Dictated to the Steno through electronic media, transcribed by her, corrected and then pronounced by me in the open Court on this the 11th day of August 2022)

**Prl. Civil Judge and J.M.F.C.,
Kanakapura.**