



**IN THE COURT OF THE ADDL. SENIOR CIVIL JUDGE & J.M.F.C.,  
AT: MAGADI.**

**Present:**

**Sri. Sandeep S. Reddy, B.A., LL.B.,**  
Addl. Senior Civil Judge & JMFC., Magadi.

**Dated: this the 3<sup>rd</sup> day of June, 2024**

**OS.No.200/2017**

**Plaintiff** : Sri. B. G. Ramaiah

(By **Sri. J.A.P.** Advocate)

V/s

**Defendants** : Sri. Mohammed Liyakath

(D1 to 3 **Exparte**)  
(D4 & 10 by **Sri. N.S.N.** Advocate)  
(D5 to 9 by **Sri. M.S.N.** Advocate)

**ORDER ON IA NO.4**

The present suit is for declaration, permanent injunction and other consequential reliefs.

2. The defendant No.4 has filed the present application U/o.VI Rule 17 of CPC seeking permission of this court to allow him to amend the written statement.

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3. In the accompanying affidavit to I.A.No.12 the defendant No.4 states that, the suit has joined many cause of action which needs to be examined. That, the relief sought by the plaintiff regarding the declaration and permanent injunction is not maintainable. That, each of the cause of action made out by plaintiff is distinct and separate. The suit is not maintainable and separate suits needs to be filed. Hence, the defendant No.4 has sought for the amendment as prayed for.

4. The plaintiff has filed the objection to the aforesaid application. In the said objections the plaintiff states that, the aforesaid application is not maintainable as it is filed after framing of issues and commencement of evidence by both the parties. The proposed amendment is neither necessary nor it helps the case in any manner. That, any amendment after commencement issues and evidence cannot be permitted to be made. Hence, plaintiff has sought for dismissing of the aforesaid application.

5. Heard the arguments of learned counsel for defendant no.4 and plaintiff.

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6. Considering the contentions of the counsel, following points arise for my consideration.

1. *Whether the amendment sought for is necessary to determine the real question in controversy?*
2. *What order?*

7. My findings for the above points are as under;

- Point no.1 : In the Negative  
Point no.2 : As per final order,  
For the following;

### **REASONS**

8. **Point no.1**:- The defendant No.4 has filed the aforesaid application praying to amend the written statement by trying to bring on record the facts relating to mis-joinder of several cause of action by plaintiff in his title suit as per O.2 R.3 of C.P.C.

9. The proposed amendment is sought by defendant No.4 at the belated stage. The defendant No.4 in his accompanying affidavit has not assigned any reasons as to why the aforesaid application has been filed at such a belated stage of the case.

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10. The evidence in the aforesaid case has already begun. The plaintiff's evidence is concluded and defendant's evidence is in progress. At this stage of the case the defendant No.4 prays to permit him to make necessary amendments.

11. The defendant has not stated any reason as to why the proposed amendment was sought at the initial stage of the case. The due diligent aspect of the matter has not been brought on record. The proposed amendment sought for by the defendant No.4 can be pleaded by him even without seeking the amendment. The proposed amendment is not necessary for the adjudication of the aforesaid suit. The question relating to the application of O.2 R.3 is a matter of fact. The same need not be pleaded. Hence, the said pleadings are not necessary for proper adjudication of the case. Even without the said pleadings the aforesaid suit can be proceeded with by invoking O.2 R.3. The aforesaid application is filed at the stage of the evidence without assigning the reason for filing the said application so belatedly. Hence, I answer point No.1 in the Negative.

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12. **Point no.2**:- In view of reasons on point No.1 and in the interest of justice and equity, I proceed to pass the following;

**ORDER**

**IA No.4 filed U/o.VI Rule 17 R/w. Sec.151 of CPC**

**filed by the defendant No.4 is hereby rejected.**

**Call on for further cross of DW-1 & 2.**

(Dictated to the Typist directly on the computer, typed by her, corrected by me and then pronounced in the open court on this the **3<sup>rd</sup> day of June, 2024.**)

**(Sandeep S. Reddy)**  
**Addl. Senior Civil Judge & JMFC.,**  
**Magadi.**