



IN THE COURT OF ADDL. CIVIL JUDGE AND JMFC.,
KUNIGAL

Present:

Sri. Manjunath Shivapooji, B.A., L.L.B.,

Addl Civil Judge & JMFC., Kunigal.

Dated: 20th day of June, 2024

O.S.NO. 90/2024

Plaintiffs : C.N.Dananjaya and others

V/s

Defendants : Boramma and another

I.A.2

Applicant : C.N.Dananjaya and others

V/s

Opponents : Boramma and another

ORDERS ON APPLICATION FILED BY THE APPLICANT
UNDER ORDER 6 RULE 17 OF CPC (IA No.2)

On perusal of plaint, it appears that plaintiffs have filed this suit for the relief of declaration by way of adverse possession and injunction with respect to suit schedule property against the defendants.



2. The applicant filed IA U/O 6 Rule 17 of CPC to amend the schedule of plaint by inserting in Khaneshmari No.45, after the word North to South-31 feet. The applicants have sworn affidavit and stated that, at the time of institution of suit, by oversight the typist left the word i.e., Khaneshmari No.45 in the plaint schedule. It is only typographical error, the proposed amendment is only a glorification. The proposed additional amendment is incorporated in the existing plaint and very much relevant which enables this Hon'ble court to have better adjudication in the matter in deciding the fact in issue involved in the case. Hence, it is just and necessary to amend the plaint schedule. The proposed amendment will not change the nature of suit or the cause of action of the suit. The proposed amendment is just and necessary to effective adjudication of the matter. Hence, prayed to allow this application.



3. On the other hand, defendants have filed their objections and contended that, the plaintiff herein filed this application only to drag and protract the proceedings and to give unnecessary trouble to the defendants. The proposed amendment is not necessary to determine the real controversy between the parties of the proceedings and nature of the suit and cause of action is also change, if the application is allowed. Hence, prayed to dismissed the application in toto.

4. Heard arguments.

5. On basis of the application and documents on record, the following points that arise for the determination of this court.

1. Whether the application deserves to be allowed?

2. What order?

6. My findings on the above points are as under:

Point No.1 : In the *Affirmative*



Point No.2 : As per final order for the following:

REASONS

7. Point No.1 : The plaintiffs have filed the present suit for the reliefs of declaration by way of adverse possession and permanent injunction with respect to the suit schedule properties against the defendants.

8. This court has perused the document produced by plaintiffs along with suit. It appears that, the plaintiffs have already pleaded the fact of the proposed amendment in the Para No.8 of the plaint.

9. On perusal of RTC pertaining to suit property and Tax demand register and considering the plaint averments it appears that, the prayer for amendment of plaint schedule cannot involve either question of limitation or change the nature of suit. Moreover, the burden is on the plaintiffs to prove the said fact. The trial has not been commenced and



under the such circumstance there is no bar in the provision of U/O 6 R 17 of CPC to amend the plaint. The amendment sought by the plaintiffs are necessary in deciding the real controversy between the parties.

10. On perusal of the amendment sought by applicants it clears that, it will not change the nature of suit or cause of action and not introduced any new thing and if the application allowed, no harm or injustice will be caused to other side. It also appears that, if the application is not allowed, applicants will be put to irreparable loss.

11. Therefore, this court is of the opinion that to decide the matter fully and finally the IA U/O 6 Rule 17 CPC is deserves to be allowed. The amendment sought by the plaintiffs will not the change of suit. If the application is allowed, no harm would be caused to defendants. On the other hand, if the application is not allowed, it will cause harm and injury to plaintiffs. Hence, to avoid the multiplicity of the



proceedings, this court inclined to allow the IA U/O 6 Rule 17 CPC in the interest of justice and equity. Accordingly, Point No.1 is answered in the **Affirmative**.

12. Point No.2: For the above discussed reasons, this court proceeds to pass the following:

ORDER

IA filed U/O 6 R 17 of CPC is
hereby allowed.

The plaintiffs are directed to
amend the schedule of the plaint and to
furnish amended plaint by 24.06.2024.

Sd/-
[Shri.Manjunath Shivapooji]
Addl Civil Judge and JMFC,
Kunigal.