

KATK510013322019



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O.S.231/2019

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

Present:

Smt Sujatha A.B., B.A.L., L.L.B.,

Prl Civil Judge & JMFC., Kunigal.

Dated this the 14th day of October, 2024

O.S.No.231/2019

Plaintiff : Srinivasa B.D.

V/s

Defendants : Gangabhovai and others

I.	Provision under which the application is filed	Under Order 6 Rule 17 of CPC
II.	Relief sought for	For amendment of plaint
III.	The date on which the application is filed	03.06.2024
IV.	Number of the application	4
V.	The date on which the objections are filed by	29.07.2024
VI.	The date on which the order were passed on the said application	14.10.2024



I.A.No.IV

Applicants : Srinivasa B.D.

V/s

Opponents : Gangabhovi and another

ORDERS ON IA NO.IV FILED BY THE PLAINTIFF
U/O. VI RULE 17 OF CPC.,

The plaintiff has filed the present application U/o.6 Rule 17 of CPC praying this court to Permit the plaintiff to amend the plaint.

2. In the affidavit annexed to the application, plaintiff has contended that he has filed above suit for the relief of partition and such other reliefs and now case is set down for cross of P.W.1 while at the time of filing of this suit, at the para No.2, serial No.2 of the plaint in 1st to 7th line was wrongly typed of relationship of father and grandfather name and para No.2 in which Genealogical tree of



plaintiff mentioned as Srinivasa D. instead of Srinivasa B.D. in para No.2 of the plaint genealogical tree. Hence to insert the father and mother of the plaintiff by name Late Dasa bovi and late Gangamma. Accordingly prayed to allow the application. The plaintiff further contended that said mistake is bonafide and not intentional and previous amendment will not change any nature or cause of action of the suit. Hence prayed to allow the application.

3. On the other hand, defendant No.2 has filed objections and contended that application is not maintainable and plaintiff created story for the purpose to filing this type of false application just to drag on the proceedings to give unnecessary trouble to defendant No.2 and he has filed this suit in the year 2019 and plaintiff has already partly cross-examined and when the matter is set down for further cross-examination, at this stage he come



up with this application to fill up the lacuna. The defendant further contended that the proposed amendment leads to multiplicity of proceedings and proposed amendment initiate new proceedings and plaintiff has not made out sufficient means to allow the application and if the application is allowed, it initiate new proceedings from the initial stage and also it amounts to miscarriage of justice and it also changes entire nature of the suit. Hence prayed to dismiss the application.

4. Heard arguments and perused the records.

5. The following points would arise for the determination:

1. Whether the present application as sought by the plaintiff is just and necessary for the proper adjudication of the matter involved in the suit?



2. What order?

6. The findings on the above said points are under:

Point No.1 : *In the Affirmative*

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

REASONS

7. **Point No.1 :-** The plaintiff has filed the present suit for the relief of partition. It appears that the plaintiff at para No.2 of the plaint has pleaded about Genealogical tree and relationship between parties, under this application the plaintiff intending to elaborate and wants to narrate about relationship between him and 1st defendant and also intended to insert his parents name along with correction of his name as Srinivasa B.D. instead of Srinivasa D. Further this application is filed at the initial stage and evidence of both parties not



commenced yet. Hence it appears that the proposed amendment neither changes the cause of action nor the nature of suit. However the delay caused by the plaintiff can be compensated by imposing costs. Hence point No.1 is answered in the ***Affirmative.***

8. **Point No.2:-** For the above discussed reasons, this Court proceeds to pass the following;

ORDER

I.A.No.IV filed by the plaintiff
U/o.VI Rule 17 of CPC is hereby
allowed on costs of Rs.300/-.

The plaintiff is permitted to
amend the plaint as prayed and to file
amended plaint.

[Dictated to the Stenographer directly on computer and then corrected by me and thereafter pronounced in the open court on this the 14th day of October 2024]

[Sujatha A.B.]
Prl. Civil Judge and JMFC,
Kunigal.