

IN THE COURT OF THE SENIOR CIVIL JUDGE , AT: ANKOLA.

Dated this the 3rd day of October 2023

PRESENT :

Sri. Manohara M.

LL.M.

Senior Civil Judge, Ankola.

O.S. No.15/2023

Petitioner

The Canara District Central Co-op, Bank
Ltd., Rep.by its Manager, Kamalakar S.
Hulsvar

–Vs–

Respondents

Vinayak Dhaku Naik & 1 others

ORDERS ON IA NO. III UNDER ORDER VI RULE 17 R/W
SECTION 151 of CPC

The plaintiff filed this application to amend the petition as as prayed in the application.

2. In support of this application, the advocate for plaintiff has sworn to an affidavit stating that due to oversight, mistake in name of defendant no.1 is crept in the cause title of plaint, and it is a typographical mistake. Unless the plaint is amended, it is very difficult to serve summons to Defendant no.1 to proceed with this case. If the plaint is amended, it will not prejudice the interest of defendant in any manner. It will help proper adjudication of case and will not change nature of the suit. The amendment is not an intentional. Hence this application is filed.

3. The learned counsel for defendant no.1 submitted that this application is filed to delay the proceedings, and hence the application may be dismissed.

4. Heard the learned counsel for both the sides and perused the records.

5. The points that arise for my consideration as under:

1. Whether the proposed amendment is necessary to determine the real controversy between parties ?

2. What order ?

6. My answers on the above points is as under:

Point No.1 : In the Affirmative

Point No.2 : As per final order

for the following:

REASON:

7. **Point No.1:** Admittedly the plaintiff filed this suit for declaration and injunction. Now the plaintiff sought to amend plaint as to the name of defendant no.1 as Vinayaka Jatti Naik instead of Vinayak Jattaya Naik. The summons to defendant no.1 is returned with shara that the name is wrongly mentioned. Unless the plaint is amended, it is very difficult to serve summons to Defendant no.1 to proceed with this case. The above proposed

amendment does not change the nature of the suit. The said amendment is necessary to determine the real controversy between the parties. Consequently, I answer Point No.1 in the affirmative.

8. **Point No.2:** In view of the above findings on point no.1, I proceed to pass following:

ORDER

IA No. III u/Order VI Rule 17 R/W.
Section 151 of CPC filed by plaintiff is
allowed.

(Dictated to the Typist, typewritten by
him, the same corrected by me and then
pronounced in the open court on 3rd October
2023.)

Senior Civil Judge, Ankola.

