

**03/02/2024**

Pltf. By VFG

D1, D2 by NSRB/RNN

For Orders

**ORDER**

The plaintiff filed the suit for the relief of declaration, injunction and possession against the defendants. The Plaintiff submitted that, he is the owner of the suit schedule property. The Defendant stored red stones in the suit schedule property and interfered in the peaceful possession and enjoyment of the suit schedule property of the plaintiff by threatening that the defendant would put up such construction in the suit schedule property.

**2.** The Defendants filed written statement by denying the Plaintiff averments and prayed to dismiss the suit.

**3.** The Plaintiff this application praying before this court permit him to carry out amendment as under:

**Insert the following in the Para No.3 of the Plaintiff**

**1. That the Defendants have encroached an area of 10 feet in length and 7 feet in width of the Western side of the suit land by storing the laterate stones, hence the Plaintiff is entitle for the possession of the said area by removing the said laterate stones so stored illegally by the Defendants.**

**2. Add the following in the second relief  
“admeasuring 10 feet in length and 7 feet in  
width.**

The Plaintiff submitted that, while drafting the Plaint due to oversight he has not pleaded exact area that has been used by the Defendants to store laterate stones illegally. Hence, he prays before this court to permit him to carry out the amendment as prayed in the application.

**4.** The Defendants filed objections stating that, the proposed amendment is at belated stage and it cannot be entertained. The Defendants further submitted that, the issues are already framed and the evidence has begun. Hence, the amendment cannot be allowed and prayed to dismiss the application.

**5.** Heard both the sides. On perusal of the materials, it is quiet evident that, issues have been framed. The Plaintiff has filed this application after the framing of the issue. The Defendants have objected stating that, the evidence has and hence the amendment cannot be allowed at the belated stage.

**6.** It is to be noticed that, the suit is filed for recovery of possession declaration and injunction. At that movement the exact area of encroachment has to be averred and it is a necessary to decide the real controversy between the parties. In such circumstances, the amendment sought by the Plaintiff is only with respect to description of the area of encroachment and said amendment would not take away of the Defendants. Thereby, I am of the opinion that, the amendment sought by the

Plaintiff can be allowed. In view of above observation, I proceed to pass following;

**ORDER**

**Application filed by the Plaintiff  
U/Order VI Rule 17 of the C.P.C as I.A No.  
III is hereby allowed.**

**Sd/-**

Addl. Civil Judge and  
J.M.F.C. Bhatkal.