

KAUK510023172021



ORDERS ON I.A NO.9

When the matter was posted for cross-examination of DW.1, the present application is filed by the plaintiff under Order VI Rule 17 R/w Section 151 of C.P.C for amendment of plaint.

An affidavit is annexed with the instant application wherein, the plaintiff has stated that, by oversight, the word “NA” in plaint paragraph No.1 has been mentioned and even the same has continued in the schedule and the word “PA” is also inserted in the schedule by oversight and the same has to be deleted.

On the other hand, the defendants have filed objections to the instant application wherein, they have contended that, the present application is an after thought and self serving. The defendants have raised question of pecuniary jurisdiction and as such, to overcome the same, the present application has been filed by the plaintiff which is liable to be rejected.

It is further contended that, the word “NA” has been subsequently inserted by handwriting and

as such, the said insertion cannot be considered as by oversight.

It is further contended that, the proposed amendment for deletion of word “PA” in the schedule is also to overcome the lacuna in the case of the plaintiff. The market value of the agricultural land measuring 04 acres 11 gunthas is shown by the plaintiff as Rs.4,00,000/- per acre and the same is specifically mentioned in I.A No.11 filed by the defendants. After receiving copy of the said application, the prayer for the deletion of the word “PA” is inserted in the instant application and submitted to the Court. The plaintiff has sought the deletion of admissions made in the plaint and as such, the same cannot be permitted by way of amendment. With this, the defendants pray to reject the instant application.

Heard on both side. Perused the entire materials. The learned counsel for the plaintiff has relied upon decision of our Hon’ble High Court of Karnataka rendered in Ajendraprasadji N. Pande and Another vs Swami Keshavprakeshdasji N. and Others reported in ILR 2007 KAR 1237.

The suit is for partition and separate possession in respect of suit schedule lands and consequential relief of declaration. It is admitted fact that, when the matter was posted for cross-

examination of DW.1, the defendants had filed I.A No.8 under Order 14 Rule 5 R/w Section 151 of C.P.C for framing additional issue with regard to pecuniary jurisdiction of the Court. The said application was rejected by this Court as per order dated 19.07.2024.

It is also admitted fact that, the order passed by this Court on I.A No.8 was assailed by the defendants before the Hon'ble High Court of Karnataka. The Hon'ble High Court of Karnataka has dismissed the appeal preferred by the defendants by confirming the order of this Court passed on I.A No.8. Hence, the contention of the defendants with regard to pecuniary jurisdiction of this Court to try the present suit is already shut down. Under these backgrounds, the present application has to be scrutinized.

Order VI Rule 17 of C.P.C is very clear in respect of amendment of pleadings by the parties. The parties to the proceedings could alter or amend their pleadings which are necessary for the purpose of determining the real questions in controversy between the parties. In the present case, when the defendants have raised the plea of pecuniary jurisdiction, the plaintiff has come up with the present application to delete the words "NA" and "PA" wherever appearing in the plaint. This Court

is full aware that, the defendants have also filed I.A No.12 under Order VI Rule 17 R/w Section 151 of C.P.C for amendment of their written statement with regard to jurisdiction and Court fees. The said application is also in the background of I.A No.8 which was filed by the very defendants to frame additional issue on pecuniary jurisdiction of this Court to entertain the present suit.

Admittedly, the plaintiff could have filed the present application before settlement of issues. Moreover, when the suit is at its fag end, the present application is filed to delete the words “NA” and “PA” wherever appearing in the plaint. In fact, the proposed amendment is not at all required or necessary to determine the real questions in controversy between the parties. When the proposed amendment is not necessary for the purpose of determining the real question in controversy, question of allowing such application is not at all warranted.

The suit is for partition and separate possession and consequential relief of declaration. The plaintiff has already led his evidence. The evidence of the defendants is also coming to be ended. At this stage, the proposed amendment is not at all necessary. Hence, Court proceeds to pass the following:

ORDER

I.A No.9 filed by the plaintiff under Order VI Rule 17 R/w Section 151 of C.P.C is hereby rejected with cost of Rs.500/- payable to the TLSC, Haliyal.

**Civil Judge & JMFC.,
Haliyal.**

ORDERS ON I.A NO.12

When the matter was posted for cross-examination of DW.1, the defendants have filed the present application under Order VI Rule 17 R/w Section 151 of C.P.C for insertion of paragraph No.7(a) to 7(f) in their written statement.

An affidavit is also annexed with the instant application wherein, the defendant No.3 had deposed with regard to non-competency of this Court to try the present suit on pecuniary jurisdiction. Through the present application, the defendants intend to add six more paragraphs to their written statement with regard to pecuniary jurisdiction of this Court and Court fees.

On the other hand, the plaintiff has filed objections to the instant application wherein, he has denied all contentions of the defendants and prays to reject the instant application.

Heard on both side. Perused the entire materials. The learned counsel for the plaintiff has relied upon decision of our Hon'ble High Court of Karnataka rendered in Ajendraprasadji N. Pande and Another vs Swami Keshavprakeshdasji N. and Others reported in ILR 2007 KAR 1237.

The suit is for partition and separate possession in respect of suit schedule lands and consequential relief of declaration. It is admitted fact that, when the matter was posted for cross-examination of DW.1, the defendants had filed I.A No.8 under Order 14 Rule 5 R/w Section 151 of C.P.C for framing additional issue with regard to pecuniary jurisdiction of the Court. The said application was rejected by this Court as per order dated 19.07.2024.

It is also admitted fact that, the order passed by this Court on I.A No.8 was assailed by the defendants before the Hon'ble High Court of Karnataka. The Hon'ble High Court of Karnataka has dismissed the appeal preferred by the defendants by confirming the order of this Court passed on I.A No.8. Hence, the contention of the defendants with regard to pecuniary jurisdiction of this Court to try the present suit is already shut down. Under these backgrounds, the present application has to be scrutinized.

Order VI Rule 17 of C.P.C is very clear in respect of amendment of pleadings by the parties. The parties to the proceedings could alter or amend their pleadings which are necessary for the purpose of determining the real questions in controversy between the parties. In the present case, when the defendants have raised the plea of pecuniary jurisdiction, the plaintiff has filed I.A No.9 for amendment of plaint to delete the words “NA” and “PA” from the body of the plaint. Thereafter, the defendants have also filed the present application to amend their written statement with regard to jurisdiction of the Court and Court fees. The instant application is also in the background of I.A No.8 which was filed by the very defendants to frame additional issue on pecuniary jurisdiction of this Court to entertain the present suit.

Admittedly, the defendants could have filed the present application before settlement of issues. Moreover, when the suit is at its fag end, the present application is filed in respect of jurisdiction and Court fees. In fact, the proposed amendment is not at all required or necessary to determine the real questions in controversy between the parties. When the proposed amendment is not necessary for the purpose of determining the real question in controversy, question of allowing such application

is not at all warranted. The suit is for partition and separate possession and consequential relief of declaration. The plaintiff has already led his evidence. The evidence of the defendants is also coming to be ended. At this stage, the proposed amendment is not at all necessary. Hence, Court proceeds to pass the following:

ORDER

I.A No.12 filed by the defendants under Order VI Rule 17 R/w Section 151 of C.P.C is hereby rejected with cost of Rs.500/- payable to the TLSC, Haliyal.

**Civil Judge & JMFC.,
Haliyal.**

ORDERS ON I.A NO.10

The present application is filed by the defendants under Order XVI Rule 1(1) R/w Section 151 of C.P.C along with the list of witnesses to lead evidence of the said witnesses.

On the other hand, the plaintiff has filed objections to the instant application wherein, he has prayed to reject the instant application.

The defendants intend to examine two independent witnesses and also PDO of Yadoga Village. An opportunity to be given to the defendants to depend their case.

Hence, I.A No.10 filed by the defendants under Order XVI Rule 1(1) R/w Section 151 of C.P.C is hereby allowed.

The defendants are permitted to lead further evidence as per list of witnesses.

No order as to costs.

**Civil Judge & JMFC.,
Haliyal.**

ORDERS ON I.A NO.11

The present application is filed by the defendants under Order VIII Rule 1-A R/w Section 151 of C.P.C for production of documents with list.

Other side submitted no objections.

Mere taking the documents on record will not prejudice the other parties.

Hence, I.A No.11 filed by the defendants under Order VIII Rule 1-A R/w Section 151 of C.P.C is hereby allowed.

Three documents with list dated 08.08.2024 are taken on record.

No order as to costs.

**Civil Judge & JMFC.,
Haliyal.**

ORDERS ON I.A NO.13

The present application is filed by the plaintiff under Order 7 Rule 14 R/w Section 151 of C.P.C for production of six documents with list dated 09.09.2024.

Other side submitted objections and prays to reject the same.

Mere taking the documents on record will not cause any injustice to other side.

Hence, I.A No.13 filed by the plaintiff under Order 7 Rule 14 R/w Section 151 of C.P.C is hereby allowed.

No order as to costs.

**Civil Judge & JMFC.,
Haliyal.**

For cross-examination of DW.1, call on 26.06.2025.

**Civil Judge & JMFC.,
Haliyal.**