

**IN THE COURT OF THE SENIOR CIVIL JUDGE AND ACJM,  
KARKALA**

Present: Smt.Sharmila C.S., B.A.L., LL.M.,  
Senior Civil Judge and ACJM, Karkala.

Dated: This the 2<sup>nd</sup> day of December, 2024.

**O.S.No.60/2023**

Smt. Jayalaxmi and others .. Plaintiffs

Versus -

Sri. K. Subramanya ..Defendant

**PARTIES TO I.A.No.9**

1. Smt. Jayalaxmi,  
Aged about 63 years,  
D/o. Late Vasudeva Udupa,  
R/at. Kenchabhatra Mane,  
Kodambala Village and Post,  
Kadaba, Puttur Taluk, D.K. District.

2. Sri. Laxminarayana Udupa,  
Aged about 52 years,  
S/o. Late Vasudeva Udupa,  
R/at. Hosa Mane,  
Odilnala Village and Post,  
Belthangadi Taluk, D.K. District. .. Applicants/plaintiffs

-Vs. -

Sri. K. Subramanya,  
Aged about 43 years,  
S/o. K. Shankara Narayana Bhat,  
Durga Village, Tellar Post,  
Karkala Taluk, Udupi District. .. Opponent

|    |                                                |                                            |
|----|------------------------------------------------|--------------------------------------------|
| i. | Provision under which the application is filed | Order VI Rule 17 and Section 151 of C.P.C. |
|----|------------------------------------------------|--------------------------------------------|

|     |                                                                   |                     |
|-----|-------------------------------------------------------------------|---------------------|
| ii. | Relief sought for                                                 | To amend the plaint |
| iii | The date on which the application is filed                        | 24-07-2024          |
| iv  | Number of the application                                         | I.A.No.9            |
| v   | The date on which the objections are filed by different opponents | 27-07-2024          |
| vi  | The date on which the orders were passed on the said application. | 02-12-2024          |

### **ORDERS ON I.A.NO. 9**

Application is filed by the plaintiffs under Order VI Rule 17 and Section 151 of C.P.C., seeking to amend the property I.D. number of plaint 'B' schedule .

2. The 2<sup>nd</sup> defendant has deposed that through oversight and clerical mistake , the I.D. number pertaining to the 'B' schedule property has been wrongly noted. Accordingly prays to allow the application.

3. Defendant , who appeared in person, denies that the amendment is necessary and for other reasons prays to dismiss the application.

4. Heard from counsel for the plaintiffs and the defendant in person on I.A.No.9.

5. The following point arise for my determination .

“Whether the proposed amendment is necessary ? ”

6. My answer to the above point is in ‘affirmative’, for the following

### **REASONS**

7. As per the plaintiffs, while writing I.D. number pertaining to the ‘B’ schedule property, it was wrongly mentioned and , the same was typographical error and came to be known only after the parties directed to lead the evidence. It is noted that I.D., number is wrongly noted and ofcourse might have been a clerical mistake. The objection of the defendant is that the proposed amendment cannot be brought out at this stage, where he has to again amend the entire written statement. The defendant cannot amend the written statement, but has the power to file additional written statement as per the amendment. But however by going through the written statement filed by the defendant, this court could only note that there is allegation about the counsel appearing for the plaintiff regarding the forgery alleged to have been committed by him , and the fraudulent acts of the plaintiff’s counsel and other advocates by name Sri. P. Sugandh Kumar Sri. K. Balakrishna Shetty etc. Therefore, no hardship will be caused if the application is allowed, where the

defendant will have the opportunity to file any counter statement to the amended plaint. Even otherwise, when the documents are supporting the case of the plaintiffs and there is only a clerical mistake in the schedule and not in the body of the plaint, this court is of the considered opinion that the said amendment should be permitted as the same does not change the nature and cause of action to the suit. Accordingly holding that the proposed amendment is necessary, the above point is answered in affirmative.

10. In view of the above said reasonings, I proceed to pass the following:

**ORDER**

I.A.No.9 filed by the plaintiffs under Order VI Rule 17 and Section 151 of C.P.C. is herewith allowed.

Counsel for plaintiffs is permitted to carry out amendment in the plaint.

(Dictated to the Stenographer, transcribed by her, corrected and then pronounced by me in Open Court on this the 2<sup>nd</sup> day of December, 2024.)

**(SHARMILA C.S.)**  
Senior Civil Judge & ACJM Karkala.