

**IN THE COURT OF PRINCIPAL CIVIL JUDGE AND
JUDICIAL MAGISTRATE FIRST CLASS AT KUNDAPURA**

**Present : SMT. SHRUTHI SHREE S, *B.A. LL.B.*
Prl. Civil Judge & J.M.F.C.,
Kundapura.**

Dated this the 18th day of August, 2023

Original Suit No. 118/2015

Parties to I.A. No. VI:

Applicant/s: Mohandas Hegde
(By Advocate Sri/Smt. G.P.S.)

//Vs//

Opponent/s: Rajeeva Handa
(By Advocate Sri/Smt. N.S.R.B.)

Parties to the suit:

Plaintiff : Mohandas Hegde
V/s

Defendant : Rajeeva Handa

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ORDERS ON I.A. VI

Plaintiff has filed present I.A. No. VI U/O VI rule 17 R/w Sec. 151
of CPC seeking to amend plaint as sought for.

2. In the accompanying affidavit, it is contended that this suit is filed for permanent injunction wherein 'A' schedule property being granted to ancestors of plaintiffs was in Sy. No. 86/1 measuring 7.17 acres in Madamakki Village, Kundapura Thaluk. But plaintiff has mentioned survey number and extent in suit 'A' schedule property as per entries made in the RTC. Therefore the said mistake was not intentional and if not amended, it cause hardship to the plaintiff and thereby seeks to allow the application.

3. Per contra defendant has filed objections contending that the plaintiff has specifically mentioned survey number and extent also by leading his evidence and after completion of chief-examination and while posted for cross-examination, making this application is not entertainable and there are no resemblance to the contention made in this application by any require documents. Therefore there is no bonafides in this application and accordingly seeks to reject the application.

4. I have heard the learned counsels for parties and perused the record.

5. The point that arise for my consideration is:-

POINTS

- a) Whether applicant/plaintiff has made out sufficient grounds to allow I.A., No. VI filed under order VI rule 17 R/w Sec. 151 of CPC?
- b) What order?

6. My answer to the above point are as under;

Point No.1: In the **Affirmative**

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

REASONS

7. **Point No.1:** This application was filed while suit was posted for cross of PW1 as stated in the objections and upon perusal of plaint averments particularly schedule column of the plaint reveals that the schedule property pleaded therein is Sy. No. 86/1BP1 measuring 6.51 acres, whereas the amendment sought is now to delete the said schedule and to insert Sy. No. 86/1B measuring 7.17 acres. As objected by defendant, plaintiff has lead evidence and also produced documents with regard to Sy. No. 86/1BP1 for relevant period of time which also reflects existence of extent of 6.51 acres as per pleadings. Ex-P3 reveals that Sy. No. 86/1B measuring 7.17 acres was the property for which

occupancy rights were granted in favor of one Laxmi Heggade and others. So also the said survey number and extent is reflected in Ex-P5 to P7. Therefore though Ex-P1 and P2 reveals the extent and survey number already pleaded, other documents reflects the extent and survey number as sought to be amended do exist. Therefore it clearly establishes ambiguity regarding claim of plaintiff to both survey number and extent of the property.

8. However there being all documents which reflect Sy. No. 86/1B measuring 7.17 acres already produced before this Court, objections of defendant to the effect that there being no resemblance to the contention raised by plaintiff is inappreciable. There already being relevant documents placed on record, establishes that the extent and survey number as sought to be amended in schedule column of the plaint would be necessary for adjudicating and finally deciding dispute between the parties failing which mere identity of the suit schedule property by itself would be put at stake. Though it is true that plaintiff has filed this application after commencement of trial, as provided to *proviso* of order VI Rule 17, it seems just, proper and necessary to allow plaintiff to make such amendments to the schedule column of the plaint as sought through

this application as there seems bonafides on part of plaintiff. But this application deserves consideration on cost for delay caused. Hence **POINT NO.1** is answered in the **AFFIRMATIVE**.

9. POINT NO. 2: In view of findings on point No. 1, I proceed to pass the following:

O R D E R

I.A. No. VI filed U/O VI Rule 17 R/w Sec. 151 of CPC is hereby allowed on cost of Rs.200/-.

Plaintiff is hereby permitted to amend schedule column of the pliant as sought for.

(Dictated to the stenographer, directly on computer, corrected by me and then pronounced in the open Court on this **18th day of August, 2023**)

(Shruthi Shree S.)
Prl. Civil Judge & J.M.F.C.,
Kundapura.