

KAUP400000982024



**IN THE COURT OF CIVIL JUDGE AND JUDICIAL MAGISTRATE FIRST
CLASS AT BAINDURU.**

PRESENT

Smt.Vidya, A.S. B.A., LL.B.
Civil Judge & J.M.F.C., Baiduru.

Dated: This the 29th day of June, 2024.

O.S.No.18/2024

Plaintiff	N. Abdulla Saheb , Aged about 72 years, S/o. Fakru Saheb, R/at: Kirimanjeshwara Village, Baiduru Taluk, Udupi District.
Defendants	1. Sheikh Farhan Rahamathullah , Aged about 31 years, S/o. Rahamathullah, R/at: Belaku, Udupi Taluk, Now R/at: Kirimanjeshwara Village, Baiduru Taluk, Udupi District. 2. Ameer Haji Mohammed @ K.B. Ameer , Aged about 74 years, S/o. Haji Saheb @ Haji Mohammed, R/at: Kirimanjeshwara Village, Baiduru Taluk, Udupi District.
	<u>Rank of the Parties On I.A.VI</u>
Applicant/Plaintiff:	N. Abdulla Saheb
	(Rep. By Sri. M.S.S.- Advocate)
Opponent/Defendants:	Sheikh Farhan Rahamathullah and another
	(Rep. by Sri.M.J.S- Advocate)
Provision	U/o.VI Rule 17 R/w. Sec.151 of CPC.,

Relief sought for	Plaint Amendment
Application dated	23-04-2024
Application No.	VI
Objection filed on	04-06-2024
Order passed on	29-06-2024

ORDER ON I.A. NO.VI

During trial stage the applicant has filed IA No.VI under Order VI Rule 17 of CPC seeking permission of the Court to amend the plaint.

2. In the accompanying affidavit, the applicant has stated that while giving instructions to his advocate for drafting the plaint he could not produce the sale deed pertaining to the property detailed in the application to his advocate. Now only he has traced out copy of the sale deed pertaining to the 'A' schedule property detailed in the application. With these averments the applicant has sought for allowing the application.

3. Per contra, defendant No.1 has filed objection to the said application, wherein he has denied the averments made in the affidavit contending that, now the plaintiff is intended to include in the suit is no way concerned to defendant and it is not the case of plaintiff that the defendant made any attempt to interfere with alleged right of plaintiff over the said property and as such the question of including said land

does not arise. With these contention the opponents have sought for rejecting the application.

4. Heard the argument of the learned counsel appearing for the parties and perused the material on record.

5. Now, the following points arise for consideration of this Court are:

Point No.1: Whether the proposed amendment is necessary for the purpose of determining the real question in controversy between the parties?

Point No.2: Whether the proposed amendment change as the nature of the suit or cause of action?

Point No. 3: What order?

6. The findings of this Court on the above said points are as under:

Point No.1: In the Affirmative;

Point No.2: In the Negative;

Point No.3: As for the final order

for the following:

REASONS

7. **Points No.1 and 2:** : This Court has already narrated the facts stated in the affidavit annexed to the application and objection of defendant No.1. On perusal of case file, it is seen that the plaintiff has sued the defendants for seeking the relief of Permanent Injunction.

8. The object of Order VI Rule 17 is to minimize the litigation, minimize the delay and to avoid multiplicity of suits. Therefore it has been included to do justice. In this case, the applicant has stated that, while giving instructions to his advocate for drafting the plaint he could not produce the sale deed pertaining to the property detailed in the application to his advocate. Amendment is necessary for the purpose of determining the real question in controversy between the parties. The plaintiff has made out sufficient grounds to allow the application. With these observations, this court has answered point No.1 in the Affirmative and point No. 2 in the Negative.

9. **Point No.3:** For the aforesaid discussion on point No.1 and 2, this Court proceeds to pass the following:

ORDER

I.A. No.VI filed by the applicant under Order VI Rule 17 R/w. Section 151 of CPC is hereby allowed.

For amendment and amended plaint and orders on IA No.II

Call on: 03-07-2024.

(Dictated to the stenographer, transcribed and typed by her, corrected by me and then pronounced in the open Court on this 29th day of June, 2024)

(Smt.Vidya A.S)
Civil Judge & J.M.F.C., Baiduru.