

ORDER BELOW EXH. 31
(Passed on 03.02.2023)

The present application has been filed by the plaintiff for amendment of the plaint as per the provisions under O. VI Rule 17 of the Code of Civil Procedure, 1908. The present suit is filed by the plaintiffs for passing the order of declaration and permanent injunction.

2. The contention of the plaintiff is that due to some typographical mistake. The field survey number of the suit property has been typed as S.No.100/1. The correct field survey number of the suit property is S.No.100/3, (Old S.No.99/3). He prayed to allow the application.

3. The say of the other side were called. The present application was strongly opposed by other side. Heard both the sides. Heard learned advocates of both the sides.

4. Taking into consideration the application, the say and submissions of advocates for both sides, the following points arise for my determination to which I have recorded my findings along with the reasons thereunder -

Sr. No.	Points for determination	Findings
1.	Whether the plaintiff has proved that he is entitled to amend the plaint as prayed for ?	Yes.
2.	What order ?	Application is allowed as per final order.

REASONS

AS TO POINTS NO. 1 AND 2 :

5. Both these points are interlinked with each other. Therefore, in order to avoid the repetition of the facts and evidence, these points are taken together for discussion. The plaintiff has filed the present application along with the affidavit and supported his contention in respect of the necessary amendment in the plaint. The learned advocate for the plaintiff submitted that the proposed amendment will not change the nature of the suit and no prejudice would be caused to the defendant if the present application is allowed. He further contended that if the application is rejected, it would severely hamper the case of the plaintiff. On the contrary, the learned advocate of defendants has taken strong objection to the proposed amendment.

6. The object of order VI rule 17 of the Code of Civil Procedure, 1908 is that to adjudicate the case effectively, the Court should allow the amendments that may be necessary for determining the real question in controversy between the parties, provided it does not cause injustice or prejudice to the other side.

7. Perused the application and the documents filed on record. On perusal, it appears that in order to decide the suit on merits and to avoid the multiplicity of the litigation, the proposed amendment claimed by the plaintiff in the plaint is necessary. Moreover, the present amendment will not change the nature of the suit. The learned advocate for the defendant has objected the proposed amendment without sufficient reason. It is clear that no prejudice would be caused to the

defendant considering the nature of amendment. On the other hand, if the proposed amendment is not allowed, it would give rise to the subsequent proceedings which will ultimately cause multiplicity and complexity in the present suit. It is necessary to have all the material facts on record to adjudicate the matter completely and effectively. The objections raised by the defendant are not satisfactory and reasonable.

8. Considering the material evidence facts and circumstances, this court is of the opinion that the proposed amendment is necessary to adjudicate the dispute between both the parties. Therefore, the point No. 1 is answered in the affirmative. Considering the nature of the application, it would be just and proper that the costs of the application to be added in the main cause. In answer to point No. 2, the following order is passed.

ORDER

1. The application (Exh.31) is allowed as under.
2. The plaintiff to carry out the amendment in the plaint within the period of 14 days from today and shall immediately supply the necessary copies of the amended plaint to the defendant.
3. Cost in main cause.
4. Both the parties to take note.

(Dictated and pronounced in the open Court).

Teosa.
Date: 03.02.2023

Sd/-
(V. H. Shende)
Jt. Civil Judge Junior Division,
Teosa.