

ORDER BELOW EXH. 69 IN R.C.S NO. 33/2013

(Passed on 25.10.2016)

The plaintiff moved present application under Order 6 Rule 17 of C.P.C and prayed that, the word sale deed without consideration be permitted to insert instead of cancellation of sale deed. The defendant filed say and submitted that, already for thrice amendment carried by plaintiffs. Therefore, the reason of typing mistake cannot be considered and prayed for rejection of present application. Defendant no. 5 and 6 have no objection for application.

2. Perused record. Heard both Ld. Advocates. It reveals that this is suit for partition along with declaration that several sale deeds are illegal not binding on plaintiff. The plaintiffs sought present amendment in respect of prayer clause E1 . Obviously, suit being for partition no need to seek cancellation of sale deed in respect of ancestral property. However, the plaintiff already carried amendment for thrice, therefore, the typing mistake is not considerable. However, the trial is yet to be commenced. Therefore, the restriction of proviso of Rule 17 Order 6 of C.P.C. not come into way . Further, though the plaintiff pleaded reason of typing mistake. at the same

((2))

time said amendment is not going to affect defendants. So far as, the negligence on the part of plaintiff is concerned, they can be punished by imposing costs. Hence, Considering the nature of amendment, I have no hesitation to allow the same with costs. As a result, I pass following order.

Order

- 1) The application is allowed subject to costs of Rs. 300/-.
- 2) Plaintiff to carry amendment within 14 days.

Sd/-

Date : 25.10.2016

(V.G. Karmore)
3rd Jt. C.J.J.D Vaijapur.

((3))

CERTIFICATE

I affirm that the contents of this [P.D.F.](#) file order are same, word to word, as per the original order.

Name of the Stenographer	: Smt. Baig H.B
Court	: 3rd Court, Vaijapur.
Date	: 25.10.2016
Order signed by the presiding officer on	: 25.10.2016
Order uploaded on	:26.10.2016