

MHKO070024192024



**ORDER BELOW EXH.22 IN REGULAR CIVIL**

**SUIT NO. 270/2024.**

Virgonda Sivagonda Patil.

Vs.

Babu Santu Kale.

The present application is filed by the plaintiff under Order 6 Rule 17 of the Code of Civil Procedure. The defendants have filed their say (Exh.27) and objected the application.

2. Heard both sides. Perused the record. The learned advocate for the plaintiff has submitted that in the present suit the plaintiff has alleged that while executing the order passed in Rasta/SR/No.11/2021 the defendants are causing obstruction to his possession over the suit property. Now, by way of amendment the plaintiff wants to add certain contentions regarding the execution of the said order and also regarding the certain incidents occurred after the passing of said order. By way of present application the plaintiff has also prayed to add certain contentions regarding the second application filed by the defendants under Section 5 of the Mamlatdar's Courts Act. He further submitted that if the proposed amendment is allowed no prejudice will be caused to the defendants. On the contrary, the proposed amendment is necessary to avoid the multiplicity in the judicial proceeding. On the other hand, the learned advocate for the defendants has submitted that the alleged incidents mentioned in the proposed amendment were occurred before filing of the suit. Therefore, the plaintiff was aware about the same before filing of the suit. Therefore, the proposed amendment cannot be allowed.

3. The plaintiff has filed the present suit for permanent injunction restraining the defendants from causing obstruction to his possession

over the suit property while executing the order passed in Rasta/SR/No.11/2021. Now, by way of proposed amendment the plaintiff wants to insert certain contentions regarding the execution of the said order and also regarding the certain incidents occurred after the passing of said order. By way of present application the plaintiff has also prayed to add certain contentions regarding the second application filed by the defendants under Section 5 of the Mamlatdar's Courts Act. It appears that the proposed amendment is relevant and necessary for deciding the dispute between the parties.

4. It appears that certain incidents mentioned in the proposed amendment are occurred before filing of the suit. However, it appears that trial in the present suit is yet not commenced. Therefore, the proviso of Order 6 Rule 17 of Civil Procedure Code regarding the due diligence is not applicable in the present situation. In such circumstances, the proposed amendment cannot be allowed on the ground that the plaintiff was aware about the alleged incident before filing of the suit.

5. In view of above discussion, it is clear that the proposed amendment is necessary for deciding the dispute between the parties. If the proposed amendment is allowed no prejudice will be caused to the defendants. It appears that the proposed amendment is technical in nature. If the proposed amendment is allowed nature of the suit will not be changed. Hence, it is just and proper to allow the application by imposing costs upon the plaintiff. In the result, I pass following order.

### **ORDER**

1. The application (Exh.22) is hereby allowed subject to cost of Rs.500/- (Five hundred only) to be paid to the defendants.

2. The plaintiff is directed to carry out said amendment within the period of 14 days and shall submit copy of amended plaint.

Date : 04.09.2025

( P.A.Patil )  
Jt. Civil Judge Senior Division,  
Jaysingpur.