



Reg. Civil Suit No.78/2019
MHKO190004282019
Alongwith Exh.18

:: ORDER BELOW EXH.18 ::

1. Defendants have filed present application for amendment under Order VI Rule 17 of C.P.C.

2. Plaintiffs has filed present suit for permanent injunction against defendants no.1 to 3. Plaintiffs also filed application for interim injunction below Exh.5. Defendants no.1 to 3 appeared in the present suit and filed their written statement cum counter claim at Exh.13. Defendant no.2 also filed application for temporary injunction below Exh.14. When the suit is listed for written statement cum say of plaintiffs to Exh.13 and Exh.14, defendants no.1 to 3 filed present amendment application

3. It is submitted by way of present application that, in para no.21, 31, 32 and 37(c) of Exh.13 due to typographical error, the word defendant no.1 have been wrongly pleaded instead of the word defendant no.2. Thus, by way of amendment defendants wants to change the word defendant no.1 by the word defendant no.2 in the above paragraphs.

4. It is further submitted that, in the array of Exh.14, para no.7, 8, 9 and 10A of Exh.14 due to typographical error, the

word defendant no.1 have been wrongly pleaded instead of the word defendant no.2. Thus, by way of amendment defendants wants to change the word defendant no.1 by the word defendant no.2 in the above paragraphs.

5. It is further submitted that above amendment is formal in nature and the same is outcome of typographical error. If defendants are allowed to carryout the above amendment, it will assist to court to decide the real controversy between the parties and plaintiffs will not be prejudice as trial in the present case is yet to be started. On the above reasons, defendants prayed to allow the application.

6. Plaintiffs failed to file their say. Vide order dated 01/03/2021 below present application, present application is proceeded without say of plaintiffs.

7. In the light of the averments in the application and contentions in the reply, the material on record and the rival submissions at the bar, the following points arise for my consideration. I have recorded my findings against each of them for the reasons to follow:

<u>Sr. No.</u>	<u>Points</u>	<u>Findings</u>
1]	Whether the application for amendment deserves to be allowed?	Yes
2]	What Order?	Application stands allowed.

As to point no.1 and 2 :-

8) It is the case of defendants that, due to typographical error they pleaded the word Defendant no.1 in place of Defendant no.2 as stated above. In my opinion, defendants are merely correcting the typographical error and due to which the basic nature of the suit would not be altered. In facts and circumstances of the case allowing the amendment would assist the court in determining the real question in controversy between the parties, completely and effectually. Consequently, considering the afore said reasons and considering the fact that proposed amendment is a pre-trial amendment, defendants are permitted to incorporate pleadings as mentioned above. Accordingly, in the afore said background, point no.1 is answered in affirmative and in answer to point no.2 following order is passed.

ORDER

- 1] Application is allowed.
- 2] Defendants shall carry out proposed amendment as stated above.
- 3] Defendants shall carry out the amendment within 14 days from today.
- 4] Application is disposed off accordingly.

Place : Radhanagari.
Date :01/03/2021.

(S. K. Shaikh)
Civil Judge Junior Division,
Radhanagari