



ORDER BELOW EXH-58

1. The plaintiff has filed the instant application for amendment in the plaint in para No.2.
2. It is asserted that the plaintiff has mentioned in para No.2 that the original owner of the suit house was Tukaramappa Narayanappa Paturkar and the word after death is mentioned to show that after the death of Tukaramappa the plaintiff became owner, but inadvertently the mode of becoming the owner of the suit property i.e. will-deed dated 02/03/1991 was remained to be submitted in para No.2 due to which an ambiguity and controversy arose. Thus, the plaintiff prayed for the proposed amendment as mentioned in para 5 of the present application.
3. The defendant filed his reply and strongly opposed the application contending that the application is not tenable as proposed amendment will change the nature of the suit. Hence, prayed for the rejection of the application.
4. After perusing the application, it appears that the suit is at the earliest stage. The court has framed the issue regarding the ownership of the suit property by the plaintiff. In such circumstances, if there is ambiguity or controversy in the pleading, no evidence can be adduced in that regard. It is the settled principle of law that no evidence can be adduced until the fact is pleaded by the party. The proposed amendment is nothing but the explanation of the ownership of the plaintiff regarding the suit property.

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5. If the amendment is allowed to be made, no prejudice would be caused to the defendant. The proposed amendment is necessary for determining the real question in controversy. Hence, the application deserves to be allowed. Hence, following order.

ORDER

1. The application at Exh.58 is allowed.
2. The plaintiff shall carry out the necessary amendment within 14 days and furnish copy of amended plaint and injunction application on or before next date.
3. The defendant is at liberty to carry out consequential amendment in his W.S.

Date : 10/03/2025 Karanja (Lad).		(Supriya N. Pund) Jt.Civil Judge (Jr.Dn.), Karanja (Lad).
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CERTIFICATE

I affirm that the contents of this P. D. F. File Judgment/Order are same word to word, as per the original Order.

Name of Stenographer	:	D.V. Daware (Stenographer-III)
Court Name	:	Jt. Civil Judge (JD) & JMFC, Karanja.
Date	:	10-03-2024
Order signed by the Presiding Officer on	:	10-03-2024
Order uploaded on	:	10-03-2024