

15.09.2022

Perused the records. It is clear that already this Court having disposed off the IA.No.2 has considered the written statement filed by the defendants and issues have been framed. Such being the case, the correct stage of the case is for orders on IA.No.5 which was filed by the plaintiff on 24.06.2022.

Prl. Civil Judge & JMFC.,
Bhadravathi.Dt.15.09.2022.

15.09.2022

**ORDERS ON IA No.5 WHICH IS
FILED BY THE PLAINTIFF UNDER
ORDER 6 RULE 17 R/w. Section 151
of CPC**

By way of this application, the Plaintiff/applicant seeks permission of this court to bring the proposed amendment as mentioned in the application in the plaint.

2. Application is supported with the affidavit of the plaintiff/applicant. Wherein, it is stated that due to fact that the defendants have contended in their written statement that the suit is not maintainable without seeking the relief of declaration, in order to avoid the multiplicity of proceedings the proposed amendment stated in the application is necessary. If such amendment is allowed, same will not change the nature of the suit and if the

relief as prayed for is refused, the plaintiff/applicant suffers injustice. With all these averments it is prayed to allow the application and to grant the relief as prayed for.

3. In spite of granting sufficient opportunities to the defendants to file their objections to this application, they have not made use of the same. Hence, the application remained unchallenged.

4. Heard on the application. Perused the entire case papers carefully. Points that arise for the consideration of this court are as under:

1. Whether the proposed amendment as mentioned in the application is necessary for the purpose of determining the real questions in controversy between the parties and as such the application deserved to be allowed as prayed for?

2. What order?

5. My findings on the above points are as under:

Point No.1: In the Affirmative,

Point No.2: As per the final orders for the following..

REASONS

6. **Point No.1:** Suit is filed seeking relief of Mandatory Injunction. Admittedly, the application on hand

came to be filed when the case stood posted for plaintiff's evidence and the trial is yet to commence. Such being the case, the proviso appended to the Order 6 Rule 17 will not come in the way of disposal of this application.

7. I have given careful consideration to the case papers, the averments made in the application. It appears to this court that if the application is allowed and the relief as prayed for is granted, it will not cause any sort of hardship/injustice to the defendants. On the other hand, the plaintiff suffers injustice and same would result in multiplicity of proceedings. Moreover, the bringing of proposed amendment in the plaint is necessary in order to decide the real controversy in question between the parties. Hence, I am of the considered opinion that point No.1 deserves to be answered in the Affirmative and accordingly same is answered in the **Affirmative**.

8. **Point No.2** : In view of my answer to the point No.1 as above, I proceed to pass the following:

ORDER

IA No.5 filed by the plaintiff under Order VI Rule 17 of CPC is hereby allowed.

No order as to cost.

Plaintiff is permitted to amend the plaint by incorporating the proposed amendment.

*For furnishing of the
amendment plaint.*

Call on : 30.09.2022.

Prl. Civil Judge & JMFC.,
Bhadravathi.Dt.15.09.2022.