

KASM310031302021



**IN THE COURT OF PRINCIPAL CIVIL JUDGE &
JMFC., AT BHADRAVATHI.**

Present: **Sri. RAVI KUMARA. V.** BA.L.,L.L.B.,
Prl. Civil Judge & JMFC.,
Bhadravathi.

DATED THIS THE 30th DAY OF NOVEMBER-2024.

O.S.No.148/2021

Plaintiff : Sri B.R.Naveen

V/s

Defendants: City Muncipal Counsel and another

I.A.No.X

Applicant/Plaintiff :Sri B.R Naveen,
S/o Late S.Ramaligappa,
Aged about 45 years,
Hindu,Transport Business,
R/oGallihalli Cross, Tarikere.

(Rept. by Sri.H.B.Siddesh, Adv.)

V/s

Opponents/defendants : 1.The Commissioner,
City Municipal Counsel,
Tarikere Road,
Bhadravathi.

2. Smt P.K.Leelamma,
D/o Kottur Basappa, 46
Years,R/o M.C Halli Village,
Tarikere Taluk.

(Rept. by Sri.B.S.Mahesh Kumar, Adv)

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| Provision Under which the application Is filed | Order VI Rule 17 R/W Section 151 of CPC |
| Relief sought for | Amend the plaint |
| Date of application | 29-10-2024 |
| Number of application | I.A.No.X |
| Date of objection | 07-11-2024 |
| Order date | 30-11-2024 |

ORDER ON I.A.NO.X

The applicant/plaintiff filed this IA under Order VI Rule 17 R/W Section 151 of CPC, praying to permit him to amend the plaint and to seek the relief of declaration to an effect that the defendant No.2 is not the legally wedded wife of late S. Ramalingappa.

2. It is stated by the applicant/plaintiff in his affidavit that, marriage of his father with the defendant No.2 is illegal and void. He stated that, defendants have set up a defence on the maintainability of the suit, it is necessary for him to seek the relief of declaration by way of amendment of plaint. Hence, he prays to allow the IA.

3. Per contra, the defendants in their objection has contended that, the plaintiff filed this IA only to drag the proceedings. That the plaintiff admitted that, his father marrying the defendant No.2 and marrying one Premaleela during the subsistence of his marriage. They further contended that, in view of such admission seeking the relief of declaration as sought under the proposed amendment is not necessary. They further contending that, seeking two declaratory reliefs in a single suit is not maintainable and it will change the nature of the suit. Hence, defendants prays to dismiss the IA.

4. In view of the rival contention of both parties the following points would arise for my consideration.

1. Whether the applicant/plaintiff has made any necessary grounds to allow this IA?

2. What order?

5. I heard both sides.

6. Carefully perused the entire materials available on record.

7. My answer to the above points are as follows:

Point No.1 : **In the Affirmative**

Point No.3 : As per the final order,
for the following

REASONS

8. **Point No.1:** The record would reveal that, initially, the plaintiff filed this suit for the relief of mandatory injunction by praying to direct the defendant No.1 authority to delete the name of defendant No.2 in the death certificate of his father S.Ramalingappa. It is

further noticed that, during the pendency of this suit the plaintiff filed IA No.V and sought the relief of declaration. But, the nature of the declaration is absolutely not stated in the said IA. However, the IA was allowed by court and the plaintiff amended his plaint. But, in the prayer column of the amended plaint, the very nature of declaration sought by the plaintiff is ambiguous and he has not sought to declare any character or any right over property of anybody. Under the proposed amendment, the plaintiff now wants to seek the declaration that defendant No.2 is not the legally wedded wife of his father S. Ramalingappa.

9. Interestingly, the plaint averments would go to show that, it is alleged by the plaintiff that, his father S. Ramalingappa is married to his mother Premaleela and contracted second marriage with defendant No.2 during the subsistence of his first marriage. That, the said S. Ramalingappa was died on 16.04.2021 and in the death certificate issued by the defendant No.1, the name of

defendant No.2 is entered as wife of S. Ramalingappa and the name of the plaintiff's mother Premaleela is not forthcoming in the death certificate. According to the plaintiff, the marriage of his father with the defendant No.2 is illegal and void. Hence, he sought for rectification in the death certificate of his father.

10. The plain reading of plaint allegations would indicate that, the core issue involved in this suit is in respect of validity of marriage of S. Ramalingappa with defendant No.2. The same is the actual dispute involved in the present suit. Under the said circumstances, the proposed amendment is absolutely necessary for proper adjudication of the dispute between the parties. It will bring a clarity of the nature of the claim made by the plaintiff in this suit. That apart, the relief that are already sought by the plaintiff is depending on the parties proving or disproving the legality of the marriage between S. Ramalingappa and defendant No.2. Therefore, the proposed amendment neither change the nature of the

suit nor introduce a new case. Hence, IA deserves to be allowed.

11. Hence, I answer point No.1 in the Affirmative.

12. Point No.2: Resultantly, I proceed to pass the following

ORDER

IA No.X filed by the plaintiff
under Order VI Rule 17 R/W
Section 151 of CPC is allowed on
cost of Rs.500/-

The plaintiff is accorded to
amend the plaint. Accordingly, he
shall furnish the amended plaint on
or before the next date of hearing.

Call on: 09.12.2024

(Dictated to the Stenographer, translated, computerized by her,
corrected and then pronounced by me in open court this 30th day
of November- 2024)

(Ravi Kumara V.)
Prl. Civil Judge & JMFC.,
Bhadravathi.