

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF JANUARY, 2021

BEFORE

THE HON'BLE MR. JUSTICE KRISHNA S.DIXIT

WRIT PETITION NO. 22196 OF 2019 (GM-CPC)

BETWEEN:

SMT. K.R. PARVATHY,
W/O K K RADHAKRISHNA,
AGED ABOUT 68 YEARS,
R/AT HALLIGATTU VILLAGE AND POST,
VIRAJPET TALUK ,
KODAGU DISTRICT -

...PETITIONER

(BY SRI. SACHIN B.S., ADVOCATE)

AND:

ACHIYANDA UMESH,
S/O RAMAKRISHNA ,
AGED ABOUT 48 YEARS,
R/AT HALLIGATTU VILLAGE AND POST,
VIRAJPET TALUK,
KODAGU DISTRICT.

...RESPONDENT

(BY SRI. HARISH GANAPATHY, ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED ORDER DATED 7.2.2019 ON I.A.NO.7 IN O.S.NO.108 OF 2013 ON THE FILE OF SENIOR CIVIL JUDGE AND JMFC AT VIRAJPET AS PER ANNEXURE-A AND CONSEQUENTLY ALLOW I.A.NO.7 AS PRAYED FOR.

THIS WRIT PETITION COMING ON FOR **PRELIMINARY HEARING IN 'B' GROUP** THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

Petitioner being the plaintiff in a suit for declaration & possession in O.S.No.108/2013 is complaining against order of the Court below whereby his application for amendment filed under Order VI Rule 17 of CPC, 1908 for giving the correct description of the suit property has been negatived.

2. After service of notice, the respondent-defendant having entered appearance through his counsel, resists the writ petition making submission in justification of the impugned order and the reasons on which it has been predicated.

3. Having heard the learned counsel for the parties and having perused the petition papers, this Court is inclined to grant indulgence in the matter inasmuch as, the description now sought to be introduced by way of amendment is founded on Commissioner's Report dated 16.03.2016 which mentions about the change of survey number because of the durasthi undertaken under the periodic Survey Manual.

4. Ordinarily, in matters relating to title disputes, Courts need to be bit lenient in considering the request for amendment and this leniency is not reflected in the order of the Court below; added the rectification sought to be effected to the description of the suit property is by a pre-trial amendment, and therefore, Courts need to be more liberal than usual.

In the above circumstances, this writ petition succeeds; impugned order is invalidated; petitioner's subject application having been favoured, leave has been granted to amend the plaint schedule as sought for.

Petitioner shall file the amended plaint within four weeks whereupon it is open to other side to file objections, if any, within next four weeks.

All contentions of the parties are otherwise kept open.

Costs made easy.

**Sd/-
JUDGE**

DS/AS