

IN THE COURT OF THE LXVIII ADDITIONAL CITY CIVIL AND
SESSIONS JUDGE, BENGALURU CITY (CCH-69)

Dated this the **18th day of November, 2020**

PRESENT:

*Sri.Nanda Kumar.B, BAL., LL.B.,
LXVIII Addl. City Civil and Sessions Judge,
Bengaluru City.*

ORIGINAL SUIT No.4605/2017

PLAINTIFF :

M/s All India Street Vendors
Public and Charitable Trust
and also called as AISVPCT ®
represented by its Managing
Trustee/authorised person
Mr. Mohammed Javeed.

(By Sri.N.Dhananyana, Advocate)

DEFENDANT:

The Commissioner of Police,
Infantry Road, and another.

PARTIES TO I.A.NO.II

APPLICANT :

Mr. Mohammed Javeed

VS.

OPPONENT :

**The Commissioner of Police
and another**

ORDER ON I.A.NO.IV

I.A.No.4 is filed by the plaintiff under Order VI Rule 17 of C.P.C. seeking to amendment to the plaint by way of insertion of item No.1 to 82, as mentioned in the said application (IA No.IV), in the schedule of the plaint.

2. In this regard, one Sri Mohammed Javeed stated to be the Managing Trustee of the plaintiff trust, has sworn to an affidavit, enclosed to the above said application (I.A.No.IV). In the affidavit, it is stated that the plaintiff has filed the present suit for permanent injunction against the defendants and also had filed an application for temporary injunction. Accordingly, the temporary injunction was granted. It is further stated that the plaintiff is a registered trust and abiding to its aims and objectives and to protect the rights of the vendor, stockists, wholesale dealers etc, the defendants are unnecessarily disturbing and interfering with the business of the plaintiff members/trustees, during the covid-19 lock down period and due to which the plaintiff trustees are put to great

hardship and loss. The interim order is also applicable to all the members of the plaintiff trust. Hence it is just and necessary to amend the plaint schedule by incorporating the places of the members where they are carrying out their business. Due to the interference of the defendants, the plaintiff members are not able to carry out their business smoothly. The plaintiff trustees are protected under the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act 2014 and they are entitled for licence from the 2nd defendant for the street vending business as per law. The plaintiffs are the citizens of India and they are eking their livelihood by selling items since several years, the plaintiffs are unable to resist the disturbance of the defendants without the aid and interference of this court. Hence this amendment application to incorporate the places of the plaintiff members in the plaint schedule is just and necessary. Hence, has sought for the allowing the I.A.No.IV.

3. The defendants on record have not filed any objections to I.A.No.4.

4. Heard the learned counsel for the plaintiff, perused the materials on record.

5. The points that arise for my consideration are as under:

1. Whether the plaintiff has made out grounds to allow I.A.No.4 filed under Order VI Rule 17 of C.P.C.?
2. What Order?

6. My findings to the above points are as follows:

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

Point No.2 : As per final order

for the following ;

REASONS

7. **POINT No.1:** The present suit filed by the plaintiff was admittedly for permanent Injunction to restrain the defendants from interfering with possession over the plaint schedule property.

7(a) It is the contention of the learned counsel for the

plaintiff that the defendants have been interfering with the vendors/trustess of the plaintiff trust in respect of the shops mentioned in the interim application (IA No. IV) and as such they had filed Writ Petition before the Hon`ble High Court of Karnataka in WP No. 7988/2020 (APMC). That the said writ petition has been disposed of by the Hon`ble High Court of Karnataka with a liberty to the petitioners therein to urge all the contentions raised in the write petition, before this court in the present suit (OS No. 4605/2017) and as such they have approached this court with the above said application.

8. In this regard the learned counsel for the plaintiffs has produced certified copy of the order of the Hon`ble High Court of Karnataka in the above said writ petition.

9. Considering the above said contention of the learned counsel for the plaintiff and also on going through the materials available on record I am of the opinion that in order to avoid multiplicity of proceedings and also to avoid conflicting decisions, the amendment sought for could be allowed. Moreover it is to be seen that the occupants of shop

premises which are sought to be included in the plaint schedule are all stated to be the members/trustees of the plaintiff trust and as such there is a common cause and therefore the amendment application could be allowed.

10. Further more it is to be seen that the defendants have not filed any objections and the plaintiff contends that the plaintiff being the registered trust has to protect the rights of the vendors, stockists, wholesale dealers etc i.e. the shop owners' rights in respect of Item No.1 to 82, as the defendants are stated to be interfering in their day to day business and that they are unable to resist the said act of the defendants. Moreover, the question as to whether permanent injunction needs to be granted or not is a question of fact, which needs to be determined at the time of trial. Therefore, I am of the opinion that, the present application(I.A.No.IV) filed by the plaintiff could be allowed, if not, it would lead to multiplicity of proceedings. More over by allowing the said application the rights of the defendants if any would not be curtailed. On the other hand, if the amendment sought for is

not allowed the rights of the plaintiff if any over the suit schedule property would be prejudice. Hence, I am of the opinion that the plaintiff has made out reasonable grounds to allow I.A.No.4. As such, I hold point No.1 in the **AFFIRMATIVE.**

11. **POINT No.2:** In view of my findings on point No.1, I proceed to pass the following:

ORDER

I.A.No.IV filed by the plaintiff under Order VI Rule 17 of C.P.C. is hereby allowed.

The plaintiff is permitted to carry out the amendment to the plaint, as sought for.

Under these circumstances, no order as to costs.

* * *

*(Dictated to the Judgment Writer, transcribed and typed by her, corrected, signed and then pronounced by me in the open court on this the **18th day of November, 2020**).*

(NANDA KUMAR.B)
*LXVIII Addl. City Civil and Sessions
Judge, Bengaluru City.*

Order on IA No.IV is
pronounced in open court,
vide separate order.

ORDER

I.A.No.IV filed by the plaintiff under Order
VI Rule 17 of C.P.C. is hereby allowed.

The plaintiff is permitted to carry out the
amendment to the plaint, as sought for.

Under these circumstances, no order as to
costs.

Call on for amendment and amended
plaint by 4.12.2020

(NANDA KUMAR.B)

*LXVIII Addl. City Civil and Sessions
Judge, Bengaluru City.*