



A.No.4985 of 2023
in C.S.No.63 of 2022

N. SATHISH KUMAR, J.

WEB COPY

This application has been filed by the applicant/plaintiff seeking permission of this Court to amend the plaint by inserting paragraphs 18(a) and 19(a) and renumbering the existing paragraphs 18(a) - 18(c) as 18(b) - 18(d) and 19(a)-19(e) as 19(b) - 19(f), more-fully described in the Schedule to the Judge's Summons.

2. Heard the learned counsel for the applicant as well as the respondent.

3. The plaintiff has filed this application to amend the prayer seeking a declaration over the title of the suit schedule property. The suit was originally filed for permanent injunction and mandatory injunction of the suit schedule property and also for damages.

4. The entire issue mainly arises with regard to the construction of a compound wall which measures 117 feet. The contention in the written statement is to the effect that bare injunction and title of the suit is disputed. At this stage, this application has been filed by the plaintiff. Counter has been filed objecting this application on two



N. SATHISH KUMAR, J.

DP

grounds stating that there was unnecessarily delay and only to protract the proceedings this amendment petition has been filed.

5. As the very nature of the amendment sought for is only to include the prayer of declaration. The main issue is with regard to the compound wall and both of them claiming right over the same, this Court is of the view that mere seeking a declaration in the prayer will not make any change in the character of the suit and it is for the plaintiff to establish his title in the trial. While that being the position, as the nature of amendment will not change the character of the suit, the application stands allowed.

6. Registry is directed to permit the applicant / plaintiff to carry out the necessary amendments and file the amended plaint copy and the same shall be served on the other side and post this matter on 24.11.2023.

DP

03.11.2023

A.No.4985 of 2023
in
C.S.No.63 of 2022