

**IN THE COURT OF V ADDITIONAL CITY CIVIL AND
SESSIONS JUDGE AT BENGALURU**

Dated this 18th day of August 2025

PRESENT : **SRI.VEDAMOORTHY B.S.** B.A.(L), LL.B.
XXXI Addl. City Civil & Sessions Judge, Bengaluru. (CCH-14)
C/c V Addl. City Civil & Sessions Judge, Bengaluru (CCH-13)

O.S.No.5511/2013

PLAINTIFF : Smt.Shantha.

V/s

DEFENDANTS : Ramanjanappa and others

i.	Provision under which the application is filed	Order VI Rule 17 R/w Section 151 of the Code of the Civil Procedure
ii.	Relief sought for	To permit the plaintiff to amend the plaint.
iii.	The date on which the application is filed	04.04.2024
iv.	Number of the application	I.A.No.VII
v.	The date on which the objections are filed by different opponents	01.08.2024
vi.	The date on which the orders were passed on the said application	18.08.2025

ORDERS ON I.A.No.VII

The plaintiff has filed I.A.No.VII under Order VI Rule 17 R/w Section 151 of the Code of Civil Procedure seeking an order to permit her to amend the plaint. The proposed amendment are as follows:-

To Add in the plaint at page No.7 after para 9 as para No.9(a) & 9(b):

9(a). It is submitted that suit A schedule property is consisting of two shops in ground floor and each two houses in first and second floor and one house in third floor totally five residential houses which are all let out on rental basis in favour of different tenants and out of the said rented portions the defendants No.1 to 5 are receiving Rs.50,000/- per month since from last ten years. It is further submitted that since from the date of demanding the plaintiff share over the suit property by issuing notice dated 31.12.2012 the defendants No.1 to 5 are collecting monthly a sum of Rs. 50,000/- from the tenants which comes around Rs.60,00,000/ (Rupees Sixty Lakhs only) for period of 10 years and also future rental income and thus the defendants No.1 to 5 are liable to be deposit the said rental amount or mesne profits before the Hon'ble court or to pay

in favour of plaintiff in respect of her legitimate share out of total amount for which the plaintiff is legally entitled.

g(b). It is submitted that since from the date of demanding plaintiff legitimate share the defendants No.1 to 5 are enjoying the mesne profits from the joint family property which includes plaintiff's share and the defendants No. 1 to 5 are not at all bother to give the plaintiff share over rents/mesne profits collected from the A schedule property even knowing the facts that the plaintiff being the joint family member as well as legal heir of deceased Krishnappa and A schedule property is ancestral property and thus the plaintiff is legally entitled for her 1/5th legitimate share over the mesne profits which accrues out of suit A schedule property.

To add in the plaint at page No.12 after prayer para(b) as prayer (bb):

(bb). Direct the defendants No.1 to 5 to deposit a sum of Rs.60,00,000/- before the Hon'ble court collected from the suit 'A' schedule property as rents from last ten years and also future monthly rents or mesne profits, on which the plaintiff is entitled for her 1/5th legitimate share.

2. In support of I.A.No.VII, the plaintiff has filed her affidavit.

3. Defendants No.1 to 5 have filed objections to the I.A.No.VII praying to dismiss I.A.No.VII.

4. The learned Counsels for the plaintiff and defendants No.1 to 5 have filed their written arguments on I.A.No.VII. Since, defendants No.9(a) and (b) have not come forward to argue on I.A.No.VII, their arguments on I.A.No.VII was taken as nil.

5. Perused the materials available on record.

6. The following point that has been arisen for my consideration:

Whether the plaintiff has shown sufficient reasons to permit her to amend the plaint as prayed in I.A.No.VII? If so, what order?

7. My answer to the above point is in the Affirmative for the following:

REASONS

8. The plaintiff has filed this suit against the defendants for the following reliefs:

- (a) Direct the defendant No 1 to 8 to effect partition of the suit 'A' schedule property into five equal shares and to put the plaintiff in separate possession of her 1/5th legitimate share by metes and bounds, in event if the defendants No.1 to 8 fails to do so, this Hon'ble Court may be pleased to effect partition of the suit 'A' schedule property into five equal shares and to put the plaintiff in separate possession of her 1/5th share over the same, by metes and bounds through the Court machinery.
- (b) Declare that the registered deed dated 17.06.2013 executed by the defendants No. 1 to 8 in favour of the defendant No.9, which is registered in the office of the Sub-Registrar, Gandhinagar, as Document No.1507/2013-14 by obtaining the signatures of the plaintiff in a fraudulent manner and the same is not binding on the plaintiff to the extent of her legitimate 1/5th share over the suit 'B' schedule property.

- (c) Restrain the defendants from alienating the suit 'A' & 'B' schedule property in favour of third parties either by themselves, their family members, GPA holders, supporters, henchmen, agents, any other person/s claiming under or through them by granting permanent injunction.
- (d) Direct the defendants to pay the costs of the suit.

9. On 08.02.2017, defendants No.1 to 5 have filed their written statement. On 13.08.2019, defendants No.9(a) and 9(b) have filed their written statement. On 03.06.2019, the issues and on 20.11.2019, the additional Issue are framed. The Trial of the suit is already commenced. On 12.03.2021, the plaintiff has already produced her oral and documentary evidences. When the case is posted for further examination-in-chief of PW1, the present application is filed. It is well settled principles of law that while considering the application for amendment of pleadings, the primary consideration of the Court is whether the proposed amendment is just and necessary to determine the real questions in controversy

between the parties and if the amendment is sought after commencement of trial, the plaintiff shall satisfy the Court that inspite of her due diligence, she could not seek the proposed amendment before the commencement of the Trial. In this background, I read the proposed amendment and the pleadings of the both parties.

10. On perusal of the existing pleadings and the proposed amendment, it appears that they are just and necessary to determine the real questions in controversy between the parties. Because, the proposed amendments are with regard to the income derived from the subject matter of the suit. In a suit for partition, they are also just and necessary to determine the real questions in controversy between the parties.

11. In the affidavit filed by the plaintiff in support of the present application, she has stated that while she was filing the suit, she could not able to ascertain the details of the mesne profits or rent of the suit schedule 'A' property. Recently with great difficulty, she was able to gather the

details and filed the present application. The said reason assigned by the plaintiff in her affidavit filed in support of the present application is satisfactory to the Court to hold that the plaintiff could not seek the proposed amendment before the commencement of the trial inspite of her due diligence, No prejudice and injustice will be caused to the defendants if the proposed amendment is permitted. Therefore, the plaintiff has shown sufficient reasons to permit her to amend the plaint as prayed in I.A.No.VII. Hence, I answer the above point in the Affirmative. In the result, I proceed to pass the following :

ORDERS

I.A.No.VII filed by the plaintiff under Order VI Rule 17 R/w Section 151 of the Code of Civil Procedure is hereby allowed.

The plaintiff is permitted to amend the plaint as prayed in I.A.No.VII.

No order as to cost.

(Typed by me in the laptop, printout taken, corrected and then pronounced by me in the open court today on this the 18th day of August 2025)

(VEDAMOORTHY B.S.)

XXXI Addl. City Civil & Sessions Judge,
Bengaluru.

C/c V Addl. City Civil & Sessions Judge,
Bengaluru.