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**ORDER ON I.A.No.V FILED U/O I RULE X R/W SEC 151
OF CPC.**

The plaintiff has filed this present application U/o I Rule 10 R/W Sec.151 CPC at I.A.V praying to implead the proposed defendants as defendant No.5 to 8 in the suit.

2. In the accompanying affidavit, the plaintiff contended that now the case is posted for her evidence but due to oversight she has not impleaded the parties shown in this application. In order to avoid the multiplicity

of proceedings it is just and necessary to implead the proposed defendants as their presence is very much necessary for adjudication of this suit therefore she prayed to allow this application and further contended that if this application is allowed it will not cause any loss or injury to the other side.

3. Notice of this application was served on the proposed defendants no.5 to 8 and they are appeared through their counsel and have not filed any objections to the application.

4. Heard both both side on I.A.No.5. Perused the application and records.

5. The points that arise for my consideration are;

1. Whether proposed defendants are necessary parties to this suit?

2. What order?

6. My findings on the above points are:

POINT No.1: In the Affirmative

POINT No.2: As per final order

for the following;

REASONS

7. **POINT No.1:** This present suit is filed, seeking the relief of partition and separate possession of the suit schedule properties. The plaintiff contended that the proposed defendants are also necessary parties to this suit at the time of the filing of the suit by oversight she has not impleaded the proposed defendants. From the contentions taken in the affidavit, it shows that the proposed defendants are the necessary parties to this suit as this is a suit for partition and separate possession in impleading all the family members in the suit it is just and necessary and in the absence of any of the family members this suit is not maintainable. Now the plaintiff is contended that the proposed defendants are also necessary parties to this suit and they are to be impleaded as defendants 5 to 8. As it appears that the proposed defendants are also the family members of the plaintiff

and defendants 1 to 4 and their presence is necessary in the suit, in their absence the suit cannot be adjudicated effectively. Hence, I am of the considered view that the proposed defendants are just and necessary parties to the suit. Hence, I answer **the Point No.1 in the Affirmative.**

8. **POINT No.2:** For the aforesaid findings, I proceed to pass the following:

ORDER

The application filed by the plaintiff U/o I Rule 10, R/W Sec. 151 of CPC at I.A.No.V is hereby allowed.

The proposed defendants are impleaded as defendants No.5 to 8 in the suit.

Plaintiff is directed to carry out necessary amendment to the plaint and furnish the amended plaint.

Prl. Sr.C.J.Gokak.

**ORDER ON I.A.No.VI FILED U/O VI RULE 17 R/W SEC
151 OF CPC.**

The plaintiff has filed this present application U/o VI Rule 17 R/W Sec.151 CPC at I.A.VI praying to permit the plaintiff to amend the plaint as per the proposed amendment.

2. In the accompanying affidavit, the plaintiff contended that now the case is posted for her evidence and she has filed this suit seeking partition and separate possession of her share in respect of the suit properties. But at the time of filing of the suit through oversight she has not included some important facts and she has not included one of the house property in the suit. There is no any will full delay on her part and if the application is allowed no loss or hardship would be caused to the other side and the nature of the suit will not be changed. Hence, she prayed to allow the application.

3. The defendant no.3 filed objection to this application by denying entire contentions of the plaintiff

and contended that the property which is plaintiff is intending to including the suit is purchased by him and his name is mutated in the revenue records of the suit properties and he has built house in the said property and he is in actual peaceful possession and enjoyment of the said property along with his family members and the said property is not the ancestral property and the plaintiff or other defendants are not having any right over the said property and they never resided in the said property as such this application is not maintainable. Further he contended that the defendants no.4 to 8 are concerned to the family of the plaintiff and they are having right, title and interest over the suit properties along with plaintiff except the property bearing No.1443. Further contended that the plaintiff is not diligent in conducting the case and she is in the habit of filing one after the another application just to protract the matter. As such the defendant no.3 prayed to dismiss the application.

4. Heard both side. Perused the application and records.

5. The points that arise for my consideration are;

1. Whether plaintiff has made out grounds to permit her amend the plaint as per proposed amendment?

2. What order?

6. My findings on the above points are:

POINT No.1: In the Affirmative

POINT No.2: As per final order

for the following;

REASONS

7. **POINT NO.1:** When this case is posted for plaintiff's evidence, at that time the plaintiff has filed this present application praying to permit her to amend the plaint as per the proposed amendment and praying of the include one of the property bearing No.1443 of Hunshyal PG village and also prayed to permit her to delete the figures mentioned as Rs.40,00,000/- and in its place Rs.50,00,000/- is to be inserted and also in the cause title the figures mentioned as Rs.10,00,000/- is to be deleted

and in its place Rs.12,50,000/- is to be inserted. Hence she has also prayed to permit her to amend the court column.

8. By perusing the facts stated in the proposed amendment, the plaintiff is contending about the property bearing GPC.No.1443 and it is also the ancestral joint family property. As this is a suit for partition and separate possession, inclusion of all the ancestral and joint family properties in the suit are just and necessary. Further in view of inclusion of the house property, the valuation shown by the plaintiff also to be amended. The proposed amendment does not change the nature of the suit and it will also not cause any loss or injury to the other side. If the plaintiff is not permitted to amend the plaint as per the proposed amendment, it will cause loss or injury to the plaintiff and further the proposed amendment does not cause any loss or injury to the other side and for deciding the suit effectively the facts pleaded in the proposed amendment are just and necessary. Hence I am of the considered view that the plaintiff has made out grounds to

permit her to amend the plaint as per the proposed amendment.

9. The defendant no.3 contended that the property which the plaintiff is intending to include i.e., GPC.No.1443 of Hunshyal PG village is not the ancestral joint family property but it is his self acquired property and he has constructed house for the said property and residing the said property along with his family members. But contentions taken by the defendant No.3 are not acceptable at this stage. Hence the contentions of the defendant no.3 is not acceptable one, as the proposed amendment is just and necessary for effectively adjudication of the suit hence, plaintiff is permitted to amend the plaint as per the proposed amendment. Hence, I answer **the Point No.1 in the Affirmative.**

10. **POINT No.2:** For the aforesaid findings, I proceed to pass the following:

ORDER

The application filed by the plaintiff
U/o VI Rule 17, R/W Sec.151 of CPC at
I.A.No.VI is hereby allowed.

Plaintiff is directed to carry out
necessary amendment to the plaint
and furnish the amended plaint.

Call on for furnishing amended
plaint by 13/08/2024.

Sd/-

Prl. Sr.C.J.Gokak.