

KABG500002152023



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

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

2. In the proposed amendment plaintiff No.12 want to insert the para numbers as 2, 3, 4 and 5 after para No.1 and include the one of the house property after serial No.2 of the suit property, amend the valuation made at the in the plaint and prayed to permit him to insert at para No.6.

3. In the accompanying affidavit, the plaintiff No. 12 contended that they have filed this suit for partition and separate possession against the defendants. The defendants in their written statement took the contention that the property bearing GPC No.244 was not included in this suit. In view of the contention taken by the defendants it is necessary

for him to amend the plaint as per the proposed amendment. If he is permitted to amend the plaint as per the proposed amendment it will not cause any loss or injury to other side if not he will be put to irreparable loss and injury. Hence, prayed to allow the application.

4. The defendant No.1, 2, 4 to 6 filed objections to this application by denying entire contention of the plaintiff and further contended that this application is filed only with an intention to harass them and drag on the proceedings. The proposed amendment change of the nature of the suit and there is no valid reason are assigned by the plaintiff for allowing this application and the plaintiff has not produced any documents in support of their contention. Hence, prayed to reject the application.

5. Hear both side. Perused the application and records.

6. The points that arise for my consideration are;

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

2. What order?

7. My findings on the above points are:

POINT No.1: In the Affirmative

POINT No.2: As per final order

for the following;

REASONS

8. POINT No.1: When the suit is posted for plaintiff evidence at the time the plaintiff filed this present application praying to permit the plaint as per the proposed amendment. The plaintiff contended that the defendants took the contention that the property bearing GPC No.244 is not included in this suit hence, suit is bad for non inclusion of all the joint family property. The plaintiff contended that in view

of the contentions taken by the defendants it is just a necessary for him to amend the plaint by inserting property bearing GPC No.244 in this suit.

9. Further the plaintiff intending to amend the plaint by assigning the para numbers as 2, 3, 4 and 4 after para No.1 and also prayed to permit the plaintiff to include facts as stated that para No.6 as per the proposed amendment. I have peruse the proposed amendment and facts stated in proposed amendment of para No.6 pertaining to the property bearing GPC No.244. As the plaintiff is including the property bearing GPC No.244 in this suit in view of the insertion of the said property in this suit the facts stated in the proposed amendment are just a necessary for adjudication of the rights of the parties.

10. The proposed amendment does not change the nature of the suit nor cause of action and the facts stated in the proposed amendment are just a necessary for resorting the real controversy in between the parties and the proposed

amendment does not cause any loss or injury to the defendants. Hence, I am of the consider view that the plaintiff has made out grounds to permit them to amend the plaint as per the proposed amendment. Hence, **I answered the point No.1 in the Affirmative.**

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

ORDER

The application filed by the plaintiff No. 12 U/o VI Rule 17, R/W Sec.151 of CPC filed at I.A.No.IV is hereby allowed.

Plaintiff No.12 is directed to carryout necessary amendment to the plaint and furnish the amendment plaint on hear before next date of hearing.

Call on by 20.06.2025.

Prl. Sr.C.J.Gokak.