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

The defendant No.8 filed this present application U/o VIII Rule 1(A) R/W Sec.151 CPC at I.A.XI praying to permit him to produce the document.

2. The plaintiff has not filed any objections to this application.

3. The defendant No.8 is intending to produce records of rights of the suit properties, mutation registered extract, plaint, written statement, judgment and decree in O.S.No.267/2011. The documents which the defendant No.8 intending to produce are relevant for deciding the suit. If the

defendant No.8 is permitted to produce the document it will not cause any loss or injury to their side. Hence, the application filed by the defendant No.8 under order 8 rule 1(A) R/W Section 151 of CPC filed at IA.No.11 is hereby allowed and defendant No.8 is permitted to produce the document.

Prl. Sr.C.J.Gokak.

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

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

2. In the proposed amendment the plaintiff is intending to insert two more properties at serial No.10 and 11 and also intending to amend the market value of the suit properties and jurisdiction amount in the plaint.

3. In the accompanying affidavit, the plaintiff contended that they have filed this suit for partition and

separate possession in respect of the suit properties. When the case is posted for cross-examination at the time they came to know that the other two properties are also their ancestral and joint family properties but due to oversight they have not included those properties in this suit and they are having share in those properties as such, it is necessary for them to include those properties by amending the plaint. If they are permitted to amend plaint as per the proposed amendment it will not cause any loss or hardship to the defendants if not they will put the irreparable loss and injury. Hence, they prayed to allow the application.

4. The defendant No.1 to 8 filed their objections by denying contention of the plaintiff. Further they contended that when the case is posted for cross-examination of PW1 at the time the plaintiffs are filed this present application and as per the amended provisions of Order VI Rule 17 of CPC no application for amendment of pleading should be allowed after commencement of prayed. As such, this present application is

not maintainable if the plaintiff is permit to amend the plaint the entire structure of the suit will be changed and it will also effect the defence. Hence, the defendants 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 them 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:** The plaintiffs are filed this present application when the matter is posted for cross-examination of PW1. The plaintiffs contended that the properties which they are intending to include in the suit by way of amendment are their ancestral and joint family properties in those properties also they are having share. Due to inadvertence and due to oversight they could not be able to include those properties in this suit at the earlier point of time. As such, they contended to permit them to amend the plaint by inserting two additional landed properties and also by amending the valuation and jurisdiction amount in the suit.

9. As this is a suit for partition and separate possession the plaintiffs are intending to insert two more properties which are also their ancestral and joint family properties. By inserting two additional landed properties in this suit it will not change the nature of the suit and cause of action and it will not affect the defense taken by the

defendants. As this is a suit for partition inclusion of all the joint family properties is just a necessary for deciding the rights of the parties. Further the proposed amendment doesn't not cause any loss or injury to other side and same is just a necessary for adjudication of the rights of the parties. The defendants contended that the plaintiffs are filed this application after commencement of trial which is not permissible, no doubt after the commencement of the trial as per the amended provisions of Order VI Rule 17 of CPC no applications for amendment of pleading should be allowed, but this suit is for partition and separate possession and in order to decide the rights of the parties completely it is just a necessary to include all the ancestral and joint family properties in this suit. If any ancestral or joint family properties are left out from this suit then definitely it will cause loss or injury to the parties. In order to decide the rights of the parties it is just a necessary to permit the plaintiff to amend the plaint as per the proposed amendment and the proposed

amendment doesn't not cause any loss or injury to the other side. No doubt this application is filed belated stage if by imposing suitable cost on the plaintiff if application is allowed it will meet the ends of justice. Hence, **I answered 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.XII is hereby allowed on cost of Rs.300/-.

Plaintiff is permitted to carryout necessary amendment to the plaint and furnish the amended plaint on or before next date of hearing.

Call on by 17.06.2025.

Prl. Sr.C.J.Gokak.