

KABG500007132023



**ORDER ON I.A.No.VII 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.As.VII praying to permit her to amend the plaint as per the proposed amendment.

2. As per the proposed amendment, the plaintiff prayed to permit her to delete the boundaries mentioned to R.S.No.350/1A and R.S.No.351/1A and insert the boundaries shown in the schedule of the proposed amendment.

3. In the accompanying affidavit, the plaintiff contended that she has filed this suit for partition and separate possession against the defendants. The defendants are appeared through their counsel and filed their written statement by denying the plaintiff averments and contended that the boundaries mentioned to suit schedule properties are not correct. At the time of filing of the suit through oversight boundaries of the suit properties are inter changed and the said error was recently noticed by her as such, she filed this present application, if she is permitted to amend the plaintiff as per the proposed amendment it will not change the nature of the suit or cause of action and it will also not cause of any loss or injury to the defendants. Hence, she prayed to allow the application.

4. The defendants No.1 to 3 filed objections to the application by denying entire contentions of the plaintiff. Further they contended that the plaintiff has filed this suit knowing all the facts of this case and as per her instruction the

plaint was prepared and they have appeared before the court and contested the suit and took the defense that the boundaries are not correct. To overcome the said lacuna the plaintiff has filed this present application at a belated stage hence, the application is not maintainable. Hence, they prayed to reject the application.

5. Heard both sides. Perused the application and records.

6. The points that arise for my consideration are;

1. Whether plaintiff has made out grounds to permit her to amend the plaint as per 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 this matter is posted for further examination-in-chief of the plaintiff, at that time the plaintiff has filed this present application contending that at the time of filing the suit, the boundaries of the suit properties inter changed by oversight, the said mistake is not intentional one but for the bonafide reason. As this is a suit for partition and separate possession of the plaintiff share in the suit properties and it is just and necessary to furnish the proper boundaries of the suit properties in order to identify the location of the suit properties. If the plaintiff is permitted to amend the plaint as per the proposed amendment, it will not cause any loss or injury to the defendants, if not the plaintiff will be put to heavy and loss and injury. Further the proposed amendment does not cause any loss or injury to the defendants. Hence, I am of the considered view that the plaintiff has made out grounds to permit her to amend as per the proposed amendment. Hence, I answered the **Point No.1 in the Affirmative.**

9. **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.VII is hereby allowed.

The plaintiff is directed to carry out
necessary amendment to the plaint and
furnish the amended plaint on or before
next date of hearing.

Call on by 05/11/2024.

Sd/-

Prl. Sr.C.J.Gokak.