

IN THE COURT OF PRL. CIVIL JUDGE AND JMFC, ANEKAL.

22nd day of July 2024

PRESENT: Sri. Shankarareddy.D.V., L.L.B., PGD in IR & PM.,
Prl. Civil Judge and JMFC, Anekal.

OS.No. 400/2020

Plaintiff : Smt. Narayanamma

V/s.

Defendant : Sri. C Venkatesh & others

IA No.VI

Applicant/Plaintiff : Smt. Narayanamma

V/s.

Opponents/Defendants : Sri. C Venkatesh & others

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ORDERS ON IA No.VI

The plaintiff has filed present application U/o.VI Rule 17 R/w Sec.151 of CPC seeking permission to incorporate the proposed amendment.

2. In the affidavit annexed to the present application, plaintiff stated that she has filed the present suit for partition in-respect of suit schedule properties. Subsequent of filing of present suit, the defendant died and his Lrs have come on record as defendant No.1(a) to 6. Thereafter the defendant No.6 filed the written statement, wherein he has taken a contention that the defendant

No.1 executed a registered Will dated 11-02-2019 in his favour in-respect of some of the suit schedule properties. Therefore, plaintiff constrained to file the present application seeking additional prayer with regard to declaration of said Will as null and void and additional pleadings with regard to obtaining of said Will by way of fraud and coercion. Accordingly, the plaintiff prayed to allow the present application.

3. In the objection, defendant No.6 denied the averments of present application and contends that suit schedule properties are self acquired properties of defendant No.1. Therefore, the defendant No.1 executed said Will in-respect of some of the suit schedule properties in his favour on 11-02-2019 and after the death of defendant No.1, he got right over the properties mentioned in the said Will. Thus, the present application filed by the plaintiff seeking permission to incorporate the proposed amendment is not maintainable. Accordingly, defendant No.6 prayed to dismiss the present application.

4. Having heard both side and on perusal of the material available on record, the following points arise for consideration;

1. Whether the plaintiff has made out valid grounds to allow the present application?

2. What order?

6. On appreciation material available on record, the above points are answered as under;

POINT No.1 :- In the Affirmative,

POINT No.2 :- As per final order,

for the following ;

REASONS

7. **Point No.1:-** The plaintiff has filed the present suit against the defendant for partition of her ½ share in the suit schedule properties as the suit schedule properties are joint family properties of herself and defendant. Subsequently, defendant died and his Lrs have come on record as defendant No.1(a) to 6 and defendant No.6 filed written statement. In the said written statement, defendant No.6 contends that some of the suit schedule properties he got through registered Will dated 11-02-2019 which is said to have executed by C.Venkatesh i.e., deceased defendant. Therefore, the plaintiff constrained to file the present application for proposed amendment.

Indisputably, the defendant No.6 has taken a contention in his written statement that he got certain suit properties through registered said Will from deceased defendant. Such being the case, it can be said that the said information not available with plaintiff at the time of filing the suit to incorporate the proposed amendment. Further, the said amendment is very much necessary to decide the case completely and effectively. In view of the proviso of Order VI Rule 17 of CPC, all pre-trial amendments may be allowed, if such amendment is necessary to decide the matter completely and effectively. In the case on hand trial not yet commenced and said proposed amendment is essential to decide the matter completely and effectively. Further, by allowing the proposed amendment, no injustice would be caused to the other side. Therefore, the present application filed by the plaintiff U/o.VI Rule 17 of CPC is needs to be allowed. Accordingly, point No.1 answered as affirmative.

7. Point No.2: For the reasons assigned in point No.1, this court proceeds to pass the following:-

ORDER

IA No.VI filed by the plaintiff U/o VI Rule 17 of C.P.C is hereby allowed.

The plaintiff is permitted to carry out amendment and file amended plaint.

(Directly dictated to steno, corrected, signed and pronounced by me in Open Court on this the 22nd day of July 2024.)

**(Sri. Shankarareddy D.V)
Prl. Civil Judge & JMFC.,
Anekal.**