



**IN THE COURT OF I ADDL SENIOR CIVIL JUDGE & JMFC,
DEVANAHALLI.**

Present: Sri Lokesh M.G., B.A.L.,LL.B.

O.S.No.1521/2006

Dated this the 25th day of September, 2025.

PLAINTIFFS: Smt. Kempamma & Others

(By Advocate Sri. M.R.,)

V/s.

DEFENDANTS: Smt. Venkatamma & Others

(By Advocates Sri. G.M.R., M.R.R.,
& M.G.P.,)

ORDER ON IA.NO.XXII

I.A.No.22 is filed by the plaintiff No.3 Under Order 6 Rule 17 of C.P.C. to amend the plaint.

2. It is stated in the accompanying affidavit that suit is filed for Partition. They have mentioned only 18 properties including fix deposit details. Nanjappa was the paternal uncle and he was managing the affairs of joint family. He



used to acquire the properties on the strength of joint family fund. He acquired in the names of his daughters. Plaintiffs are representing the branch of Subbanna. All the properties are included except the proposed properties. During the cross-examination of PW1, it came to know about the said left out properties. PW1 has admitted about the same. They are also joint family properties. They are not included through oversight. They are in the joint names of defendant No.1 and 2 and other joint family members. They are acquired out of joint family fund. Hence, it is prayed to allow the application.

3. Objection is filed stating that application is not maintainable. Already evidence is led. At this stage, application is not maintainable. The proposed property was already allotted to the share of defendant No.2 as per the Will. Accordingly, defendant No.2 is the absolute owner of the said properties. Hence, question of partition doesn't arise. Plaintiff doesn't know about the schedule of the property. Amendment changes the nature of suit. It will lead to multiplicity of proceedings. To drag the case, application is filed. To harass the defendants, it is filed.



Plaintiffs are not joint family members of Muniswamappa. Question of the filing of the suit doesn't arise. Already, there was registered Partition taken a place between the joint family members of Nanjappa on 09.11.1998. Accordingly, the proposed properties are the self acquired properties of Late Nanjappa. It is not disputed by his family members. Hence, plaintiffs have no locus standie. Application is filed after lapse of 24 years and hence it is barred by limitation. Accordingly, it is prayed to dismiss the application.

4. Heard the arguments and perused the materials on record.

5. The suit is filed by the plaintiffs for Partition in respect of suit properties which are agricultural and house property. Bank deposit is also mentioned. Now the plaintiff No.3 is approaching this Court seeking amendment by way of insertion of item No.19 to 21 properties stating that they are jointly standing in the names of defendant No.1 and 2 and they are joint family properties. It is also stated that they are acquired out of joint family fund. It is also



stated that Nanjappa was the Kartha of the joint family and acquired the said properties in his name and in the names of his daughters and hence they are to be considered as joint family properties. It is also stated that it came to knowledge during cross-examination and they are not included by oversight. Hence, it is just and necessary to include the said properties. Along with the application, Record of Rights, Mutation Registers are produced. They are in respect of proposed properties. They are standing in the names of defendants who are joint family members. In the objection, it is stated that there was partition and the said properties are self acquired properties of Nanjappa and it is admitted by his family members. At this time, it can't be stated so. Because, nature of properties can't be decided at this time. It requires trial. Only after full-fledged trial, it can be said that the properties are joint family properties or self acquired properties. But, at this stage, it is necessary to permit the plaintiffs, as it is to include the proposed properties in the schedule. It will help the Court to determine the real controversies between the parties to the suit. If the application is allowed, it doesn't mean that



plaintiffs have proved the nature of suit properties. It is their burden to prove the facts stated in the application. Defendants are at liberty to file additional pleading. Amendment applications can be considered liberally. The delay can be met by imposing cost. Accordingly, as per the materials on the record, I am of the opinion that application is liable to be allowed. Objection is not sustainable. Hence, I pass the following:

ORDER

I.A.No.22 filed by the plaintiff
No.3 under order 6 Rule 17 read
with Section 151 of Civil Procedure
of Code is hereby allowed on cost of
Rs.1,000/-.

For amendment and amended
plaint.

Sd/-
(Loksha.M.G.)
I Addl Sr.Civil Judge & Jmfc.,
Devanahalli.