

O.S.No.342/2010

06-03-2023

Heard counsel for plaintiff and defendant on I.A. filed under order 6 Rule 17 of C.P.C. at I.A. No.12 seeking to amend the plaint. The plaintiff intends to amend the plaint by incorporating three more properties to the suit claim.

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He intends to contend that the defendant has purchased the proposed properties by utilizing the joint family income under registered Sale Deed dated 24-10-1997. Therefore the said properties are also liable to division.

The defendant No.2 has objected the said application by contending that the said properties are not joint family properties and said properties are his self acquired properties. The plaintiff has not shown any diligent reason in not seeking this amendment before settlement of issues. According to him, the plaintiff is not diligent in prosecuting the suit. Hence he seeks to reject the application.

Admittedly, the present suit is one for Partition and Separate Possession and by the nature of suit itself it requires for inclusion of all properties. The dispute between parties is in regard to nature of acquisition of proposed properties which are sought to be included in the suit.

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The said question requires to be examined by framing of issues and directing the parties to address the same in the trial. As far as delay is concerned, the plaintiff has narrated in the I.A. that she came to know about the said properties recently. The original stage is for cross examination of PW1. Therefore considering the cause shown in the application I.A. is allowed on payment of cost of Rs.1,000/- payable to defendant No.2.

The question of nature of properties in the hand of defendant No.2 is kept open. The defendant No.2 is entitled to file Additional Written Statement.

**Call on : 11-04-2023
for furnishing of amended
plaint.**

**Addl. Senior Civil Judge & J.M.F.C.,
Devanahalli.**