

**IN THE COURT OF THE PRINCIPAL CIVIL JUDGE
AND JMFC.,AT DEVANAHALLI**

Present: Sri. PRATHAP KUMAR. N.,^{B.A. L.L.B.,}
Prl. Civil Judge & JMFC.,
Devanahalli.

Dated this the 1st day of September, 2022

O.S.No.683/2008

Plaintiff : Smt. Lakshamma

V/s

Defendants: Smt. Pillamma & Marithammanan

PARTIES IN I.A. NO.IV

**Applicant/
defendant No.2** : Smt. Pillamma & Marithammanan

-V/s-

Opponent/ plaintiff : Smt. Lakshamma

ORDER ON I.A.IV

This order arising out of I.A No.IV filed by defendant No.3 U/o 14 Rule 5 R/w 151 of CPC, seeking for framing of additional issue as prayed in the IA-IV.

2. In the support of the application, the defendant No.1 has duly sworn affidavit and annexed the same along with application and stated that, defendant No.1 being the

mother of plaintiff got partition joint family properties between B. Thamegowda who is uncle of plaintiff through register partition deed on dated 12-08-1964, in the said partition deed 1st defendant allotted several properties but plaintiff suppressing the said fact filed this frivolous suit only in respect of schedule property for partial partition, further there was partition between plaintiff and defendant No.1 and Sy. No.70 measuring 2 acre 22 guntas of Goddlumuddenahalli village was allotted to share of plaintiff and revenue records are changed in the name of plaintiff that issue No.4 has to amend as prayed and additional issue has to be framed for proper adjudication in this matter. therefore proposed additional issues are very much necessary for determination of suit, hence pray to allow the application.

03. On the other hand plaintiff resist application filed by defendant No.1 by filing written objection and contended that, application filed by defendant is not maintainable either in law or on a fact, further plaintiff has filed this suit for partition against defendant in respect of suit schedule property in the year 2008, this court has already framed issues and also additional issue itself, 2nd defendant has no right title interest over suit schedule property, he is trying to knock off valuable property of plaintiff.. Hence pray to dismiss the application

04. Heard on arguments.

05. Upon perusal of the pleadings and documents, the following points are arise for my consideration.

POINTS

1. Whether the proposed issues are required for adjudication and determination of real dispute between plaintiff and defendants?

2. What order?

6. My findings to the above points as follows;

Point No. 1: In the Affirmative

Point No. 2: As per final order for the following

REASONS

7.Point No.1: The plaintiffs have filed this suit against defendants seeking relief of partition and separate possession over the suit schedule property , thereafter defendant No.2 was appear through his counsel and filed separate written statement on his behalf thereafter this court had framed so many issues on the basis of rival pleading, however, this court had not framed proposed issues, therefore such issues are very much required to determination of rights and liability of parties. Wherein the defendant sought amendment of issue No.4 and one

additional issue.

08. On gone through the pleadings it appears that, defendant No.2 has taken specif plea that there was a partition on dated 12-08-1964 between plaintiff and defendant No.1, therefore these issue does not required for amendment, however, the additional issue is required for determination of suit.

09. Order 14 of CPC emphasize that, Court can alter, delete, re-frame or modify issues at any stage of the proceedings, under such circumstances above said two issues are require for determination of the suit and decided the suit between the parties ***Accordingly, I answer point No.1 in the Affirmative.***

10. **Point No.2:** In view of the above discussion, this court proceeds to pass the following:

ORDER

I.A.No.IV filed by defendant No.2
U/o 14 Rule 1 and 5 R/w 151 of of CPC
is hereby allowed in part.

Accordingly, the following one
additional issue is framed.

1. Whether the defendant No.2
proves that, there was partition

between plaintiff and defendant No.1
and Sy. NO. 17 measuring 2 acres 22
guntas of Goddlumudenahalli village
was allotted to the share of plaintiff?

(Dictated to Stenographer, transcribed and computerized by him, transcript corrected and pronounced by me in the open court on this the 1st day of September 2022.)

(Sri. Prathap Kumar. N)
Prl. Civil Judge and JMFC.,
Devanahalli.

ORDER PRONOUNCED IN THE OPEN COURT
(VIDE SEPARATE)
ORDER

I.A.No.IV filed by defendant No.2 U/o 14 Rule 1 and 5 R/w 151 of of CPC is hereby allowed in part.

Accordingly, the following one additional issue is framed.

1. Whether the defendant No.2 proves that, there was partition between plaintiff and defendant No.1 and Sy. NO. 17 measuring 2 acres 22 guntas of Goddlumudenahalli village was allotted to the share of plaintiff?

Prl.Civil Judge and JMFC.,
Devanahalli.

Additional issues framed on 01-09-2022

1. Whether the defendant No.2 proves that, there was partition between plaintiff and defendant No.1 and Sy. NO. 17 measuring 2 acres 22 guntas of Goddlumudenahalli village was allotted to the share of plaintiff?

Prl.Civil Judge and JMFC.,
Devanahalli.