

KABR320005142008



IN THE COURT OF PRL. CIVIL JUDGE, & JMFC.,

AT DEVANAHALLI.

Dated this the 10th day of MARCH 2026.

:PRESENT:

SRI. VENKATESHA.N., B.A.LL.B, LL.M.,
PRL. CIVIL JUDGE & JMFC.,
DEVANAHALLI.

O.S.No.431/2008

PLAINTIFF/s : Smt. Thirumalamma (Dead by LR's).

V/s

DEFENDANT/s : Sri. Yangappa & Another.

I.A.No.XVII

This IA has been filed by the Defendants when the case was posted for arguments. The Applicant/Defendant has filed I.A.No.XVII under Order 6 Rule 17 R/w Sec.151 of CPC for amendment of written statement.

2. By way of Amendment, the defendant No.5 intends to insert certain facts with regard to acquisition of suit schedule property. According to the proposed amendment suit schedule properties were

joint family properties of one Eer Dhimaiah and father of defendant No.3 & 5. Plaintiff and one Munithirumallamma were daughters of Eer Dhimaiah above said Eer Dhimaiah and father of defendant No.3 & 5 performed marriage of plaintiff and Munithirumallamma and provided ever thing for them to lead happy life. Hence, plaintiff has no right in the suit schedule properties. Further, above said Eer Dhimaiah executed Will on 25.07.1992 in favour of defendant No.3 & 5. Thereafter, said Eer Dhimaiah died in the year 1994. Accordingly, as per the said Will defendant Nos.3 & 5 became absolute owners in respect of suit schedule properties. Defendants recently came to know about the said Will. Hence, plaintiff are not entitled for any share in the suit schedule properties. Hence this IA.

3. The plaintiff has filed objection to IA.No.XVII. It is contended that, the application is not maintainable either in law or on facts. The facts narrated in the proposed amendment are all false. The suit against the Defendants for the relief of partition and separate possession. The application filed by the defendant is not maintainable either in law or on facts and as such the same is liable to be dismissed in limine. The proposed amendment will alter the facts and add new pleadings. It will change the nature of claim. Already both side evidence is closed. The

alleged Will is not in accordance with law. Hence, prays to reject the application.

4. Heard the arguments from both side.
5. The following points arise for my consideration:
 1. **Whether the Applicant/Plaintiff has made out a ground to allow the I.A.No.XVII ?**
 2. **What order?**
6. My answers to the above points are as follows:

Point No.1 : In the **AFFIRMATIVE**

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

REASONS

7. **Point No.1:-** The Plaintiff has filed this suit for relief of partition and separate possession against the Defendants. It is the contention of the defendant No.5 that, as per the Will they became absolute owners.

Order 6 Rule 17 of CPC reads fallows; "Amendment of Pleadings - The court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real

questions in controversy between the parties.

Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial."

8. In this case plaintiff intends to add certain facts to the written statement. The proposed amendment in the Plaint will not change the nature of the suit. The burden to prove the above said facts is on the defendant. It is settled law that, all the issues shall be decided in the same suit to avoid multiplicity of proceedings. Hon'ble Hight Court of Karnataka in **WP.No.108512/2025 (GM-CPC) between Sri. Mohammad Rafi and another V/s Sri. Bandenavas and others** it is held that if pleadings sought to be amended in respect of property number, extent location etc may be allowed liberally even after commencement of trial. Hence at this stage, if the present amendment application is considered, it will not cause any injustice to other side. The plaintiff will have an opportunity to prove his contention against the defendants by adducing proper evidence. By considering the facts and circumstances of the case the amendment application sought by the defendants is deserved to be allowed, the proposed amendment is necessary for the purpose of

determining the real questions in controversy between the parties and if application is allowed on payment of cost, it would meet the ends of justice. Under such circumstances, I.A.No.XVII is deserve to be allowed. Hence, I hold point No.1 in **AFFIRMATIVE**.

9. Point No.2:- For the aforesaid reason and discussion, I proceed to pass the following:-

O R D E R

I.A.No.XVII filed by the Applicant/Defendant No.5 under Order 6 Rule 17 R/w Sec.151 of CPC is hereby allowed on cost of Rs.1000/- payable by the defendant No.5 to the plaintiff.

The Applicant/Defendant No.5 is permitted to amend the written statement as prayed in the I.A.No.XVII.

(Dictated to the Stenographer on computer and computerized by her, corrected by me and then pronounced in the open court on this the 10th day of March 2026)

(VENKATESHA.N)
PRL. CIVIL JUDGE & JMFC.,
DEVANAHALLI.

