

Order on IA filed U/Order VI Rule 17 R/w 151 of CPC

1. The present application is filed by the plaintiffs and sought for amendment as per the application schedule. In support of this I.A., the plaintiff has sworn an affidavit and averred that, they have filed suit for the relief of Partition. The suit schedule A and B properties were having Sy.No.17, but after filing of the suit, without knowledge of the plaintiffs, the Sy.No.17 was demarketed as Sy.No.17/1 and 17/2. The property sold to one Radhadevi was assigned the Sy.No.17/2 and properties mentioned in the suit as A and B schedule properties as Sy.No.17/1. The said demarkation was not within the knowledge of the plaintiff and when they obtained the RTC Extracts and other Revenue documents, they came to know that the Sy.No.17 has been assigned the Sy.No.17/1 and 17/2. Hence, sought to allow the application.

2. On the other hand, the counsel for defendants has filed objections by contending that the averment in the affidavit are false and application is not maintainable. Further, the changes taken place in respect of Sy.No.17 was within the knowledge of the plaintiffs since plaintiffs themselves have admitted in O.S.No.941/2007 and even though they had knowledge of the same they kept quite and filed the present

application at belated stage. Hence, sought to reject the present application.

3. Heard both sides, perused materials available on record.

4. The following points would arise for this court consideration:

1. Whether the plaintiff has made out sufficient grounds to allow this application?

2. What Order?

5. This court has answered the above points as under for the following reasons

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

Point No.2: as per final **Order** for the following

::REASONS::

6. **Point No.1:** It is admitted fact that the plaintiffs have filed suit for the Partition and Declaration. Now, the plaintiffs have sought to amend the plaint in respect of number of the suit scheduled properties. As per the contention of the plaintiffs, the suit schedule property, which has shown as Sy.No.17 has changed into Sy.No.17/1 and 17/2 during the pendency of present suit. The schedule sought to be amended

contains no new facts or averrments, only the property number is sought to be changed. Under such circumstances, if plaintiffs will be permitted to amend the plaint, nature of the suit will not be changed. Further, the defendants will get an opportunity to file their written statement. The delay in the filing of application can be compensated by imposing cost. Hence, plaintiff have made out the grounds to allow the present application. Accordingly, Point No.1 is answered in the Affirmative.

8. **Point No.2:** For the above said reasons, this court pass the following:

ORDER

I.A. filed by the plaintiff U/Order VI
Rule 17 R/w 151 of CPC is hereby
allowed.

Accordingly, plaintiff is permitted to
amend the plaint as sought.

For amend the plaint and furnishing amended plaint.
By 07.12.2022

***II Addl. Civil Judge & JMFC.,
Hosakote.***