

**IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC,
HOSAKOTE.**

Dated this the 29th day of August 2024

PRESENT:

Sri. Arun Kumar.G. B.A., LL.B.
Senior Civil Judge & JMFC,
Hosakote.

O.S.No.1822/2022

Old OS No.1888/2014

Plaintiff/s : Smt. Rathnama

- V/s -

Defendant/s : Sri. Rangaswamy Reddy and
others.

i. Provision under which the application is filed.	U/o 6 Rule 17 of CPC. U/o 1 Rule 10(2) of CPC
ii. Relief sought for	Amendment and to impelad the Proposed defendant
iii. The date in which the application is filed	04-02-2023 14-06-2022
iv. Number of the application	IA No.5 IA No. 6
v. The date on which the objections are filed by different opponents	20-04-2023
vi. The date on which the orders were passed on the said application.	29-08-2024

ORDERS ON I.A. No.5 and 6 FILED UNDER ORDER 6 RULE 17 OF CPC AND IA UNDER ORDER 1 Rule 10(2) of CPC

1. When the case was posted for plaintiff evidence, the plaintiff filed the above applications seeking amendment of the plaint and to implead the proposed defendant.

2. In the affidavit it is stated that the defendant No.2 and 3 has created release deed by playing fraud on the plaintiff. By virtue of the said document they have executed JDA dated 07-03-2022 which was entered by the 1st defendant with the proposed defendant No.5 with respect to item N.5. Therefore, to amend the plaint by impleading additional pleadings and the prayers the amendment is necessary. The said proposed amendment does not changes the nature of the suit nor cause of action. Hence, prays to allow the application.

3.The defendant No.1 filed objections by denying statement made by the plaintiff and further contended that as per advise of the well wishers of both the side the plaintiff and defendant No.2 and 3 by receiving Rs.5,00,000/- each from the defendant No.1 have executed release deed dated 25-02-2018. In order to protract the proceedings the above applications are filed. Hence, on other grounds prays to dismiss the application with cost.

4. On service of notice the proposed defendant No.4 and 5 remain absent.

5. Heard the arguments.

6 The points that arise for my consideration are here under:-

1. Whether the applicant/plaintiff makes out sufficient reasons to allow the applications?

2. What Order?

7. My findings to the above said points are as follows :-

Point No.1 :- In the affirmative.

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

REASONS

8. **Point No.1** :- The plaintiff has filed the above suit against the defendants for partition and separate possession in respect of suit properties. The defendants through their written statement denied the suit arguments. After framing of issues when the case was posted for evidence the above applications were filed. The plaintiff taken a specific contention during pendency of the suit defendant No.1 entered into JDA with defendant No.5 and also executed exchange deed in favour of defendant No.4. Therefore, the proposed amendment is necessary to prove the suit claim. In the objections defendant No.1 has not denied the execution of exchange deed and JDA in favour of proposed defendants.

9. Further, on service of notice the proposed defendants not denied the statement made by the plaintiff. On perusal of available records and the pleadings, the proposed amendment does not changes the nature of the suit nor cause of action. If the applications are rejected more hardship would be caused to the plaintiff. Further, the proposed defendants being the subsequent document holders of the suit property they are the proper and necessary parties to this suit. Otherwise, it may leads to multiplicity of proceedings between the parties. In view of the above reasons, I answer Point No.1 in affirmative.

10. **Point No.2** :- In the light of discussion made above, I proceed to pass the following:-

ORDER

I.A. No.5 and 6 filed by the plaintiff under Order 1 Rule 10(2) of CPC and IA No.6 U/o 6 Rule 17 of CPC are hereby allowed.

No order as to costs.

Plaintiff is hereby directed to amend the plaint and shall furnish amended plaint along with V/Slip.

(Dictated to the Typist, corrected and then pronounced by me in the open court on 29th Day of August, 2024)

Senior Civil Judge & JMFC,
Hosakote.

(Order pronounced in open court
under separate vide order.)

ORDER

I.A. No.5 and 6 filed by the plaintiff
under Order 1 Rule 10(2) of CPC and IA
No.6 U/o 6 Rule 17 of CPC are hereby
allowed.

No order as to costs.

Plaintiff is hereby directed to
amend the plaint and shall furnish
amended plaint along with V/Slip.

Call on.22-10-2024.

Senior Civil Judge & JMFC,
Hosakote.