

**ORDERS ON I.A. No.3 FILED BY THE
PLAINTIFF U/O. VI R. 17 OF C.P.C**

The plaintiff has filed this application U/O. VI rule 17 of CPC and prays the Court to permit him to amend the southern boundary of item No.1 and to delete item No.5 property in the schedule.

2. The plaintiff contends that, he has filed this suit seeking the relief of partition and separate possession of his share in the suit schedule properties. Due to typographical error, the southern boundary of item No.1 property is wrongly mentioned as the land of Hotte Rangajja instead of Government school compound. Another property is wrongly mentioned as item No.5 property. It has to be deleted from the schedule column. The proposed amendment is very much necessary to elucidate the real dispute between the

parties. Neither it will change the nature of the suit nor it will introduce new facts. Hence, he prayed the Court to allow his application.

3. The defendant No.1 objected this application and filed his written objections contending that, the application is filed at a belated stage. The plaintiff is examined as PW.1 and now the case stands posted for

further chief examination of PW.1. There is no item No.5 property at page No.4 of the plaint. Hence, he prayed the Court to dismiss the application.

4. The counsel appearing for the defendant No.2 and 3 orally objected this application.

5. I have heard both the counsels on this application.

6. On the basis of the contentions taken by the plaintiff in his application, the following points arise for my consideration.

1. Whether the proposed amendment is necessary to elucidate real dispute between the parties?

2. What order?

7. On the basis of the pleadings of both the parties, my findings to the above points are as under:

Point No.1 : In a affirmative
Point No.2 : As per final orders for the following:

REASONS

Point No.1:

8. The plaintiff has filed this suit against the defendants seeking the relief of partition and separate possession of his 1/3rd share in the suit properties by metes and bounds. Now the case stands posted for further chief examination of PW.1.

9. The plaintiff contends that the southern boundary of item No.1 property is wrongly mentioned as the land of Hotte Rangajja

instead of Government school compound in the schedule of the plaint. Likewise, he intends to delete item No.5 property from the schedule.

10. Mentioning of correct description of the suit schedule property is very much necessary in all the suits relating to immovable properties for the purpose of identification of the same. If the boundaries of the properties are not mentioned correctly, the winning party will not be able to get the fruits of the decree.

11. In order to get the fruits of the decree, the description of the property has to be mentioned properly. Moreover, the plaintiff intends to delete item No.5 property from the schedule of the plaint. The proposed amendment is not inconsistent with the earlier pleadings of the plaintiff.

12. The proposed amendment will not introduce new facts nor it will take away any

admissions. Mentioning of correct boundary of the property is very much necessary to elucidate the real dispute between the parties. No prejudice would be caused to the defendants, if the plaintiff is permitted to amend his plaint as sought in the application. Because, the correct description of the property in the schedule will assist the Court in passing an appropriate order or decree. Accordingly, I answer the Point No. 1 in the affirmative.

Point No.2: For the aforesaid reasons, I proceed to pass the following:

ORDER

I.A No.3 filed by the plaintiff
U/O. VI R.17 of CPC is here by
allowed.

No orders as to costs.

The plaintiff is permitted to
carryout amendment as sought in
the application.

To carry out amendment and
to file amended plaint. Call on
16.07.2020.

Senior Civil Judge & JMFC.,
Hiriyur