

**IN THE COURT OF THE SENIOR CIVIL JUDGE AND
PRINCIPAL J.M.F.C., TARIKERE**

PRESENT : SRI VAIDYA SHREEKANT, *B.Sc, LL.B.*
*Senior Civil Judge & Prl. J.M.F.C.,
Tarikere. .*

(Name of the Presiding Judge)

DATED : THE 15th DAY OF APRIL 2025

OS No.137/2019

**ORDER ON IA-XIV FILED UNDER ORDER VI RULE
16 AND 17 R/W SEC.151 OF CPC**

The present application has been filed by the plaintiffs seeking amendment of the plaint. By way of amendment, they want to insert one paragraph as 17(a) in which there is averment to the effect that there was an agreement in between the plaintiffs through which they agreed to execute exchange deed. They also want to seek alternate relief praying to allot 20 Guntas of land in Sy.No.49/2.

2. In the affidavit annexed to the application, the plaintiff No.1 deposed that there was an agreement in between the plaintiffs and defendant No.1 and 2 for executing exchange deed. The agreement came to be notarized by public notary at Registration No.298 of

2019 dated 15.04.2019. Hence, it is just and necessary to plead the same by way of proposed amendment.

3. The application came to be objected by the defendant No.2. The objection of the defendant No.2 is that the application is not at all maintainable in the eye of law and it is liable to be rejected with cost. The application came to be filed at the stage of cross-examination of DW.2 only with an intention to drag on the proceedings. The execution of the agreement and exchange of the property are all imagination of the plaintiffs. No reasonable grounds are there to allow the application etc.

4. Heard on application.

5. The following points arise for consideration of this Court:

1. Whether the plaintiffs have made out reasonable grounds to allow the proposed amendment?

2. What order?

6. After hearing both sides, I answer the above points as under;

Point No.1 : In the Negative

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

R E A S O N S

7. **POINT No.1:** As discussed above, the instant application has been filed by plaintiffs seeking permission to get amend their plaint. By way of amendment, the plaintiffs want to insert one paragraph to the effect that there was an agreement in between the plaintiffs and defendant No.1 to execute exchange deed in respect of suit schedule property, the agreement was registered before notary public.

8. Admittedly, the application came to be filed at the stage of cross-examination of DW.2. According to plaintiffs themselves, there was only an agreement in between them and defendant No.1 and 2 through which they agreed to exchange of suit schedule property. It is well settled law that either through agreement or through unregistered exchange deed, the title of any property cannot be passed. It is not the case of the plaintiffs that there is already a registered deed of exchange in between them and the defendants.

9. Furthermore, by way of amendment, the plaintiffs also want to insert alternate prayer through which the plaintiffs prayed to allot 20 Guntas of land in Sy.No.49/2 and additional 4 Guntas towards their

share based on exchange deed. As discussed above, according to plaintiffs themselves, there was only agreement through which the defendants agreed to execute exchange deed. It means, there is no any exchange deed in between them as on this day. Under circumstances, granting of alternate relief based on non- existed exchange deed does not arise at all. Hence, I am of the opinion that there is no merit in the application filed by the plaintiffs. No purpose would be served by allowing such type of amendments.

10. As discussed above, the present application is filed at the fag end of the litigation. No explanation is offered as to what restrained them from filing above application at the initial stage of the proceedings and it is nothing but abuse of process of law as rightly contended by the counsel for defendants. As I have already discussed, no purpose would be served by allowing such type of amendment applications. **Accordingly, I answer point No.1 in Negative.**

11.**POINT NO.2:** For the reasons and above discussion, I proceed to pass the following:

O R D E R

The application filed at IA No.XIV
by the plaintiffs under order VI Rule 16

and 17 R/w Sec.151 of CPC is hereby
rejected.

SD/-
SENIOR CIVIL JUDGE & PRL. JMFC.,
TARIKERE.