

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

PRESENT : SRI MUZAFFAR A. MANJARI, *B.A, LL.B.*
Senior Civil Judge & J.M.F.C.,
Tarikere.

(Name of the Presiding Judge)

DATED : THE 1st DAY OF JULY 2026

OS No.44/2014

ORDER ON I.A.NO.XXVI FILED UNDER ORDER VI
RULE 17 R/W SEC.151 OF C.P.C.

The plaintiffs have filed this application under Order VI Rule 17 R/w Sec.151 of C.P.C. seeking amendment of plaint as per proposed amendment. The proposed amendment is filed in the application itself.

2. The application of the plaintiffs is accompanied by an affidavit duly sworn to by the plaintiff No.2 wherein, he has averred that he and other plaintiffs have filed this suit for partition, declaration and injunction and other reliefs but the defendants have unnecessarily complicated the matter regarding partition of other joint family properties. In fact, there is no dispute regarding partition of other family properties but the present suit property was not included in the said partition and as such, the same continued to be the joint family properties and therefore, the plaintiffs have filed this suit only in respect of the said property. These aspects are required to be incorporated in the plaint and as such, the proposed amendment is merely to bring clarification in the pleadings and

the same will not change nature of the suit and also it will not be inconsistent with the pleadings already submitted. If the amendment is not permitted, the plaintiffs will lose their valuable right in the suit property and therefore, it is necessary for them to amend the plaint. Hence, for all these reasons, the plaintiffs have prayed to allow the application.

3. The defendants No.11, 18 and 19 have filed their objections to the application denying the averments of the application and accompanying affidavit and contending that the application filed by the plaintiffs is not maintainable either in law or on facts. The plaintiffs have come with a plea of partition in the joint family properties but now by way of proposed amendment, they intend to take away the said admission. Moreover, the defendants have filed their written statement on 28.02.2015 and after lapse of long time, the plaintiffs have come up with this application seeking amendment and as such, if the same is allowed it will go to the root of the suit and therefore, the doctrine of relation back is not applicable. In fact, the plaintiffs have challenged sale deeds of more than 3-4 decades in the suit and as such, if the amendment is allowed, it will defeat right accrued to the defendants. The proposed amendment is barred by time and it cannot be entertained. Hence, on these grounds, the defendants No.11, 18 and 19 have prayed to dismiss the application of the plaintiffs.

4. I have heard arguments of the counsel for the plaintiffs and defendants and perused record of the case.

5. The points that arise for my consideration are as under :

:POINTS:

1. Whether plaintiffs have made out ground for allowing the proposed amendment?
2. What order?

6. My findings to the above points are as under :

POINT NO.1 : In the AFFIRMATIVE

**POINT NO.2 : As per final order
for the following :**

R E A S O N S

7. **POINT NO.1** : I have gone through record of the case and the same discloses that the present suit is filed by the plaintiffs for partition of their title to the suit properties and also for declaration in respect of sale deeds executed with the respect to suit property with consequential perpetual injunction. The defendants No.11, 18 and 19 have filed their detailed written statement to the plaint of the plaintiffs thereby denying the claim of the plaintiffs. Such being the case, now the plaintiffs have come up with the present application seeking amendment of their plaint as per the proposed amendment.

8. Perusal of the proposed amendment reveals that the plaintiffs intend to further plead that a partition has taken place in the family with respect to the other family properties and not with respect to the present suit property and that no partition has taken place in the present suit property till this day. It may be noted that in their written statement, the defendants No.11, 18 and 19 have taken a specific contention that the family of Marulappa has already partitioned the available

family properties long ago and the same is also incorporated in the revenue records and therefore, the present suit filed the plaintiffs seeking partition in the suit property is not maintainable. Thus, in view of this defence of the defendants, it is necessary for the plaintiffs to give clarification in the plaint by way of the proposed amendment regarding the family partition already taken place in the family. As such, the proposed amendment is necessary for the plaintiffs and also for this court to decide the matter effectively and conclusively.

9. Though the defendants have contended in the objections filed to the application that the amendment is sought after long lapse of time and the same is barred by time, the said contention is not convincing because the plaintiffs are not seeking any additional relief by way of amendment. Further, the proposed amendment will not take away any right of the defendants because they can very well prove that partition has taken place in the family with respect to the present suit property also. Thus, the defendants will not be put to any loss if the proposed amendment is allowed.

10. The proposed amendment will not change nature of the suit and the defendants would not be put to any loss because they will have every opportunity to prove their case by filing additional written statement and by leading evidence and also by cross-examining the plaintiffs on the proposed amendment. Hence, for all these reasons, I am of the considered opinion that the plaintiffs have made out ground for allowing the proposed amendment and accordingly, I answer point No.1 in the **AFFIRMATIVE**.

11. **POINT NO.2:-** For foregoing reasons, I proceed to pass the following :

ORDER

I.A.No.XXVI filed by plaintiffs under Order VI Rule 17 R/w Sec.151 of C.P.C. is hereby allowed on cost of Rs.500/-.

The plaintiffs are permitted to amend their plaint as per proposed amendment.

For payment of cost, carrying out amendment and filing amended plaint.

Sd/-
**SENIOR CIVIL JUDGE & JMFC.,
TARIKERE**