

ORDERS ON IA.NO.XIII

The plaintiff No.3 has filed I.A.No.XIII under Order VI Rule 17 R/w Sec.151 of CPC to amend the plaint.

Proposed Amendment :

“ವಾದಿಯು ಸಲ್ಲಿಸಿರುವ ದಾವೆಯ ಪ್ರಾರ್ಥನೆಯ ಪ್ರಕಾರದಲ್ಲಿ ‘ಇ’ ಆದ ನಂತರ ಮತ್ತೊಂದು ಪ್ರಾರ್ಥನೆಯ ‘ಈ’ ಎಂದು ಸೇರಿಸಿ "ಪ್ರತಿವಾದಿ 3, 4 ಮತ್ತು 5 ರವರು ತಾವು ಸಲ್ಲಿಸಿರುವ ಲಿಖಿತ ಹೇಳಿಕೆಯಲ್ಲಿ ತಿಳಿಸಿರುವಂತೆ ದಿನಾಂಕ:27.10.2009 ರಂದು ಆಗಿರುವ ನೋಂದಾಯಿತ ವಿಭಾಗ ಪತ್ರ ಮತ್ತು ನೋಂದಾಯಿತ ಕ್ರಯಪತ್ರ ವಾದಿಗಳಿಗೆ ಬಾಧ್ಯಪಡಿಸುವುದಿಲ್ಲ"

2. The plaintiff No.3 has filed her affidavit and contended that, she has filed suit for partition and separate possession. Due to typographical error, she has not added another relief in her prayer, which is sought in the proposed amendment. The said prayer is required for effective adjudication of suit and no injury will be caused to the defendants, if application allowed.

3. The defendant No.4 filed his objection by contending that, the proposed amendment is based on Partition Deed dt:27.10.2009. Further, there is no pleading with regard to the Registered Sale Deed which is intending to be claimed by the plaintiff. After 10 years of filing of the suit, this application was moved without valid reason. The plaintiff stated that, she has not included said

prayer in her plaint, due to 'typographical error' which is not acceptable. There is no merit in the application and it may be dismissed with cost.

4. Heard on both side.

5. The point that would arise for my consideration is;

“Whether plaintiff No.3 made out grounds to amend the plaint as sought in the application”?

6. My answer to the above point is in the “Affirmative”, for the following;

: REASONS :

7. Point No.1:- This application was filed on 01.02.2024 and thereafter, matter was adjourned for impleading legal heirs of defendant No.5. Thereafter this Court allowed IA No.9 filed by the defendant No.4 for amendment of written statement. Subsequently, the defendant filed memo for recall of order and same has been rejected. The counsel for plaintiff pressed this application.

8. On going through proposed amendment, it is noticed that, the plaintiff is intending to amend the prayer on the basis of written statement filed by the defendant No.3 to 5. The plaintiff intending to sought prayer with regard to subsequent Title Deeds, executed in respect of suit schedule property. This suit has been filed for partition and separate possession and rights of the parties has to be adjudicated. It is true that,

the application has been filed at delayed stage, but the said proposed amendment is necessary for declaring the rights of the parties in the suit schedule property. Moreover, allowing application and permitting the plaintiff for seeking prayer as per proposed amendment will not cause hardship to the defendants. The defendants have opportunity to take defense on that point. By considering relief claimed by the plaintiffs and facts of the case if this application is allowed with cost, no such hardship would be caused to the defendants. Hence, I proceed to pass the following;

ORDER

I.A.No.XIII filed by the plaintiff No.3 under Order VI Rule 17 R/w Sec.151 of CPC is hereby allowed with cost of Rs.800/-.

The plaintiffs are directed to amend the plaint and furnish amended plaint before next date of hearing.

Call on 02.04.2026.

Prl.Civil Judge & JMFC.,
Chamarajanagar.