

ORDER ON IA.No.IX

This IA No.IX has been filed by the plaintiffs U/O VII Rule 14(3) of CPC praying to permit the plaintiffs to produce four documents. The ld. Counsel for defendant no.3 has submitted that he has no objections to allow IA.No.IX on 04.04.2024 and further the ld. Counsel for defendant nos.1 & 2 has submitted no objections to allow IA.No.IX on cost on 29.05.2024.

Needless to say, Order VII Rule 14(3) has to be construed very liberally and in the case on hand the defendants have even submitted no objections to allow this IA. Hence, in order to give full opportunity for the plaintiffs to prove their case and to decide the case on merits, the IA.No.IX has to be allowed. Therefore, I proceed to pass the following:-

ORDER

The IA.No.IX filed by the plaintiffs U/O VII Rule 14(3) of CPC is hereby allowed on cost of Rs.300/- payable at the rate of Rs.100/- each to all the defendants.

ORDER ON IA.No.X

As per Circular No.RJ No.163/2023 of The Hon'ble High Court of Karnataka dated 24.08.2023, the following details have been mentioned:-

i	Provision under which the application is filed	U/O VI Rule 17 R/w 151 of
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		CPC
ii	Reliefs sought for	To amend the plaint.
iii	The date on which the application is filed	26.03.2023
iv	Number of the application	IA.No.X
v	The date on which the objection is filed by opponent	D1 and 2:- 22.08.2024 D3:-04.04.2024
vi	The date on which the order was passed on the said application	15.10.2024

The IA No.X has been filed by the plaintiffs U/O VI Rule 17 R/w 151 of CPC praying to amend the plaint.

2. This application has been severely opposed by all the three defendants by filing objections. To be specific the defendant nos.1 & 2 have filed one common objection and defendant no.3 has filed another objection. The defendant nos.1 & 2 have filed one common written argument and the defendant no.3 has filed another written argument. Needless to say, I have heard both the sides and perused all the available materials on record.

3. In gist the plaintiffs are intending to insert few facts with regard to changing of khatha by defendant nos.1 & 2 behind the back of the plaintiffs and with regard to sub-phoning of survey numbers of the suit schedule properties. The objections of defendant nos.1 & 2 will go into the merits of the case as they have contended that the plaintiff will not come under the family tree of the defendants, the defendant

nos.1 & 2 have succeeded to suit schedule properties from their mother and they are in possession of the same as such the plaintiffs will not get any right over the suit schedule properties. In the objection of the defendant no.3 it has been contended that the partition took place between the family members of defendant nos.1 & 2 very long back, the defendant no.1 out of his share in item no.1 has given properties to his daughter-in-law Smt Sulochana to the extent of 1 acre and remaining 11 guntas to defendant no.3. Likewise in land bearing Sy.No.379/1C measuring 26 guntas was given to defendant no.3, accordingly the khatha was got changed to the names of Sulochana and defendant no.3 in the year 2013 itself, the plaintiff even though was well known about the khatha proceedings at that point of time itself did not question the same for 11 long years has come up with this application with the malafide intention.

4. The sub-phoding of survey numbers is not disputed by the defendants. All the defendant no.3 is contending that the plaintiffs have filed this application at the very belated stage i.e., after 11 long years even though they had the knowledge about the khatha proceedings in the year 2013 itself. It is well settled law that, mere change of khatha will not confer any right or title to the khatha holder, as mentioned above the defendants have not disputed about sub-phoding of survey numbers. If this amendment is not allowed, the survey numbers of the suit schedule properties and the actual numbers of the properties which the plaintiffs

are intending to get them partition will not match, certainly it will cause confusion and hardship. No doubt this application has been filed at the belated stage i.e., after 11 years from the change of khatha. Mere delay in filing application itself is not a sole ground to dismiss this application, if this application is dismissed on technical grounds, this Court is of the firm opinion that this Court cannot decide the case on its own merits. The defendant no.3 pleads that some properties have been given to Sulochana and defendant no.3, the mode of transfer is said to be only by way of changing of khatha, changing of khatha by itself will not confer any title. Justice demands that this application has to be allowed. The delay in filing this application can certainly be compensated by imposing suitable costs on the plaintiffs.

5. With these observations, I proceed to pass the following:-

ORDER

The IA.No.X filed by the plaintiffs U/O VI Rule 17 of CPC is hereby allowed on cost of Rs.1,500/- payable at the rate of Rs.500/- each to all the defendants.

For payment of cost, for carrying out of amendment and for furnishing of amended plaint by 08.11.2024.

15.10.2024
**The Civil Judge & JMFC.,
Yelandur.**