

IN THE COURT OF THE PRL. CIVIL JUDGE & JMFC.,  
AT HONNALI.

Dated on this 5<sup>th</sup> day of April 2023.

PRESENT:

Sri. MANJUNATHA R. B.A.L. LL.B.,  
Prl. Civil Judge & JMFC.,  
Honnali .

O.S. No.137/2018

PLAINTIFF : Smt. Gowramma

V/s

DEFENDANTS : Smt. Rathnamma and others

IA No-IV

Applicant/  
plaintiff : Smt. Gowramma

V/s

Opponents/  
Defendants : Smt. Rathnamma and others.

\* \* \*

ORDERS ON I.A. No.IV

At the stage of plaintiff evidence, the plaintiff has filed I.A. No.IV Under Order 6 Rule 17 R/w Sec.151 of CPC, seeking permission to amend the plaint as sought in the application.

2. The reasons ventilated by the plaintiff in the affidavit annexed to the application are that the plaintiff has filed the suit for the relief of partition in respect of the suit schedule properties against the defendants. The plaintiff is intending to insert the some of the properties in the plaint schedule. The properties are intending to insert are very much essential for adjudication of the case. Hence, prays to allow the application.

3. Per contra the defendants have filed their objection to the application. In the objection it is contending that, the application filed by the plaintiff is not maintainable either in law or on facts and same has been liable to be rejected. The plaintiff has filed the application belatedly and no valid reason has been assigned for allowing the application. The property in khata No. 86 , property No.56/2 is standing in the name of Jayappa s/o Veerappa and there is no connection between the plaintiff and to this property. The property bearing janjar No.323 and property No. 217 is the property of Mallappa S/o Chikkappa. Hence prays to reject the application .

4. Heard both the sides. Perused the materials on record.

5. After going through the application with affidavit and objection statement, points arise for my consideration

are;

1. Whether the plaintiff has made out sufficient grounds to amend the plaint?

2. What order ?

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

Point No.1 : In the Affirmative.

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

:: R E A S O N S ::

7. Point No.1 : The present suit is filed for the relief of partition and other consequential reliefs against the defendants in respect of the suit schedule properties. Through this application, the plaintiff has sought to add some of the properties in the plaint schedule. According to the plaintiff, the above said properties are essential to prove his case. The defendants in their objection they have contending that, the properties are intending to insert are belongs to Jayappa and Mallappa and the said properties are not connected to the plaintiff. Whether the properties mentioned in the application are the joint family properties of plaintiff and defendants is to be adjudged only after full pledged trial. The burden of proving the ancestral or joint family character of the above said properties are lies with the plaintiff. The alleged amendment sought by the plaintiff

will not change the nature of suit and also it will not introduce the new cause of action. The initial burden is lies on the plaintiff to prove her case. In this case trial is not yet completed. Hence, there is no allegation in negation with the admitted facts. Moreover, it is pertinent to note the pleas which was sought to be added is very much is necessary to adjudicate the matter effectively. It is settled principle of law that, the rival parties of the suit are permitted to add and include the subsequent pleas after filing of the suit. The alleged amendment sought to the plaintiff is noticed subsequently to the date of the suit. The said factum is also is bound to be prove by the plaintiff.

8. As per Section 101 to 103 of Indian Evidence Act, the plaintiff knocked the doors of justice is bound to prove her pleadings with proof on documentary and oral evidence. It is settled principle of law that, at the time of considering the amendment application the court must not go into the merits of the case. Since there is no question of taking away of any admitted facts. No prejudice will be caused to the defendants, if this application is allowed. On the other hand, if this application is rejected, the plaintiff is deceived with an opportunity to put forth her case. In the touchstone of the reasons stated above, I answer Point No.1 in the Affirmative.

9. Point No.2 : In view of my findings on Point No.1, I proceed to pass the following:

ORDER

I.A. No.IV filed by the plaintiff Under Order VI Rule 17 R/w Sec.151 of C.P.C. is hereby allowed .

The plaintiff is permitted to carryout amendment and to file amended plaint.

Call on: 23-05-2023.

[Dictated to the stenographer, transcript typed by her, corrected and then pronounced by me in the open court on this day of 5<sup>th</sup> April, 2023]

**(Manjunatha R,)**  
Prl. C.J & JMFC., Honnali

**(Order pronounced in the open court vide separate order)**

**ORDER**

I.A. No.IV filed by the plaintiff Under Order VI Rule 17 R/w Sec.151 of C.P.C. is hereby allowed .

The plaintiff is permitted to carryout amendment and to file amended plaint.

Call on: 23-05-2023.

**(Manjunatha R,)**  
Prl. C.J & JMFC., Honnali