

**THE COURT OF IV ADDL. SENIOR CIVIL
JUDGE, & J.M.F.C., DHARWAD**

Present : SRI. NITIN YESHWANTH RAO
B.com.L.L.B(Spl.),
IV Addl. Senior Civil Judge,
& J.M.F.C., Dharwad.

O.S. No.374/2016

Dated : 22nd day of March 2021

Plaintiff : Smt. Annapurnabai S. Desai and others.

(R/by Sri.S.I.D, Adv)

V/s.

Defendants : Siddaling K. Desai and others.

(D1 dead)

(D2 by Sri.M.S.C, Adv)

PARTIES TO I.A. No.IX

Applicant: Smt. Annapurnabai S. Desai and others.
(ori Plfs)

V/s.

Opponents: Siddaling K. Desai and others.
(Ori Def)

**Order on IA No.IX filed Under order 6 Rule
17 R/w Sec.151 of CPC.**

This interlocutory application is filed by the plaintiffs hereinafter called applicants seeking amendment to the plaint.

2. Contents of the affidavit filed along with this interlocutory application are as under:

Applicants are the plaintiffs in the instant suit which they have filed for partition and separate possession. Thereafter the applicants straight away mention the proposed amendments to the plaint and pray for allowing the instant interlocutory application .

3. The defendant No.2 hereinafter called opponent filed their objections to the applicants interlocutory application and contended that the applicants had filed amendment application before this Court on 15-1-2021 and thereafter not presses the said application and then came up with this application only to drag on the proceedings. As the applicants have not made sufficient grounds for allowing the said application , the opponent prayed for rejection of th same.

4. Upon hearing both sides, the following points arise for my consideration:-

POINTS

- 1. Whether the instant interlocutory application deserve to be allowed ?**
- 2. What order?**

5. My finding on the above points are as follows:-

Point No.1 : In the Negative.

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

REASONS

6. **Point No.1** : Applicants herein mention about the proposed amendment to the plaint in their affidavit and in their interlocutory application. Whether the proposed amendments are to be added to the plaint or to be deleted is not forthcoming from the applicants.

7. Order 6 Rule 17 though permits either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendment shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties, the proviso to the said Rule 17 provides that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.

8. As far as the case in hand is concerned, trial has already commenced. Under such circumstances, it is for the

applicants to convince the Court that despite due diligence they could have raised the matter before the commencement of trial. The applicants however, did not bother to show that due to bonafide reasons they could not raise the matter prior to the commencement of trial.

9. The Learned Counsel for the applicants relied upon the decision of the Hon'ble Supreme Court reported in AIR 2008 SC 1960 between Puran-Ram Vs.Bhaguram and another. Having meticulously gone through the above cited decision of the Hon'ble Apex Court and with due respect to the dicta laid down in the said case, this Court is of the opinion that it is not applicable to the facts and circumstances of this suit as the applicants herein came up with a very unclear and evasive application which clearly exhibits the lackadaisical approach of the applicants. Considering the same **point No.1 is** answered “**in the Negative**”

10. **Point No.2** : For the above said reasons, I proceed to pass the following :-

ORDER

**I.A. No.IX filed by the plaintiff under
Order 6 Rule 17 R/w Sec.151 of CPC is
hereby rejected.**

For plaintiff evidence as one last chance.

Call on 30-3-2021.

(Dictated to the stenographer, corrected and then pronounced by me in the open Court on this
day **22nd day of March 2021**)

(Sri. Nitin Yeshwanth Rao)
IV Addl. Senior Civil Judge,
& J.M.F.C. DHARWAD.