

**IN THE COURT OF THE PRINCIPAL SENIOR CIVIL
JUDGE, HUBBALLI**

Present:
Sri. Yamanappa Karehanumanthappa,
Prl. Senior Civil Judge, Hubballi.

OS No.242/2024

Dated this the 9th day of April - 2025

Plaintiffs : Smt. Yallamma Gurushiddappa Koppad
and others.

.Vs.

Defendants : Smt. Shakuntala W/o. Channappa Kodli
and others.

PARTIES TO IA No.II

Applicants : Smt. Yallamma Gurushiddappa Koppad
and others.

.Vs.

Opponents : Smt. Shakuntala W/o. Channappa Kodli
and others.

ORDER ON IA No.II

The Advocate for plaintiffs have filed I.A. No.II U/o.6 Rule 17 of C.P.C. praying for amendment of the plaint by way of inserting paras as prayed in the application.

2. The plaintiff No.1 has sworn affidavit stating that after filing this suit the defendant No.2 married to one Manjunath S/o. Basappa Lakkappanavar @ Hittalmani on 08.11.2024 in front of house of Manjunath and she is leading

married life with the said Manjunath. By virtue of marriage of defendant No.2 she lost her rights over the properties of her former husband. Hence, it is necessary to amend the plaint para No.13A, 18 and 19(cc). The said proposed amendment is very much necessary for proper adjudication of the case. It is essential to give the adjudication of the matter involved in the suit. It will not change the nature of the suit. Hence, prayed to allow the application.

3. The counsel for defendant No.2 has filed objection to this I.A. contending that the contents of the application and affidavit are false and frivolous and not maintainable. He contended that the defendant No.2 is no way concern with the family of plaintiffs and others defendants where the defendant No.2 ceases her right after second marriage, but in respect of said contention it required to prove the facts by producing cogent evidence. This defendant being a widow of deceased Veerappa does not ceases her right over the suit schedule property if she got second marriage. As per Hindu Succession Act, Section 14(1) the widow is entitle share in the deceased husbands property. The present application is filed with an intention to drag the matter. If the application is allowed it will change the nature of the suit. Hence, prayed to reject the application.

4. Heard and perused the records. The following points arise for my consideration:

1. Whether the plaintiffs have made out grounds to allow the application?

2. What order?

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

1. In the Affirmative.

2. As per final order,
for the following:

REASONS

6. **Point No.1:** The plaintiffs have filed suit against the defendants for partition and separate possession. Based on the pleadings issues have been framed. Now the case is posted for plaintiff evidence. At this stage the Advocate for plaintiffs has filed this application seeking permission of the court to insert paras in plaint as sought in the application. The plaintiff No.1 has contended that the defendant No.2 has got married one Manjunath, hence she lost her rights over the properties of her former husband. The said proposed amendment is very much necessary for proper adjudication of the case. The defendant No.2 has contended that she being a widow of deceased Veerappa does not ceases her rights over the suit schedule property if she got second marriage. As per Hindu Succession Act, Section 14(1) the widow is entitle share in the deceased husbands property. It is essential to give the adjudication of the matter involved in the suit.

7. The plaintiffs have filed this suit for partition and separate possession of the suit properties. Whether the defendant No.2 has got second marriage or not is yet to be decided by this court. To decide the controversy between the parties the proposed amendment is necessary. No doubt there is a delay in filing this application. On the delay ground only the application cannot be rejected. The proposed amendment is necessary to determine the rights of the parties in the proceedings. The proposed amendment will not change the nature of the suit nor cause of action. The defendants have right to cross-examine on the said contention. Therefore, I answer point No.1 in **Affirmative**.

8. **Point No.2:** In view of my answer to point No.1 as stated above, I proceed to pass the following;

ORDER

The I.A. No.II filed by the plaintiffs U/o.6
Rule 17 of C.P.C. is hereby allowed.

The plaintiffs are permitted to amend the
plaint and furnish the amended plaint.

(Dictated to the Stenographer directly on computer, computerized by her, script corrected directly on computer and then pronounced by me in the Open Court on this the **9th day of April – 2025**)

(Yamanappa Karehanumanthappa)
Prl. Senior Civil Judge, Hubballi.