

**IN THE COURT OF SENIOR CIVIL JUDGE AND
JMFC, KALAGHATAGI**

PRESENT

**SRI. RAVINDRA L.HONOLE, B.A., LL.B. (Spl)
SENIOR CIVIL JUDGE AND JMFC, KALAGHATAGI**

DATED THIS 08TH DAY OF NOVEMBER 2024
O.S. No.46/2024

PLAINTIFFS:

Gireesh S/o Basavananeppa Angadi and
others
(Sri. S.R.H., Adv)

Vs

DEFENDANTS:

Sankappa S/o Basavanneppa Angadi
and others

(D-1 Sri. M.G.S., Adv)
(D-2,4,5 Exparte)
(D-3 Sri. M.S.D./M.G.P.,Adv)

PARTIES TO IA No.2

APPLICANTS:

Gireesh S/o Basavananeppa Angadi and
others

Vs

OPPONENTS:

Sankappa S/o Basavanneppa Angadi
and others

ORDER ON I.A.No.2

The applicants/plaintiffs have filed the
application u/o 6 rule 17 of CPC for bringing proposed
amendment to the plaint.

2. The application is supported by the affidavit sworn to by the plaintiff No.1 wherein it is contended that at the time of filing suit they could not include all the family properties and he was advised to include VPC properties. In spite of diligence he could not include the said properties. The proposed amendment will not change the nature of suit to come to a just conclusion and effective decree. It is necessary to bring the proposed amendment to the plaint. Therefore, prays for allowing the application.

3. The defendants have filed objections denying the contents of application. It is contended that application is filed with intention to drag on the matter to harass the defendant No.3. The application in the present form is not maintainable and same is liable to be rejected with cost. Therefore, prays for dismissal of application.

4. Heard the arguments.

5. The points arise for my consideration are:

1. Whether the applicants/plaintiffs have made out sufficient grounds to allow the proposed amendment which is necessary for effective adjudication of

the matter in controversy between parties?

2. What order?

6. My findings on the above points are:

POINT No.1 : In the Affirmative

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

REASONS

7. **POINT No.1**: The plaintiffs have filed suit for partition and separate possession. The matter is posted for evidence of plaintiff at that time this application has been filed. I have gone through the proposed amendment sought under application. The plaintiffs wants to bring the amendment to the plaint by adding house properties VPC No.97/A, 97/A1, 97/B, 97/B1 situated at Kalaghatagi. It is contention of plaintiffs that said properties are the joint family properties therefore, they wants to insert the said properties in the plaint schedule.

8. In the present case on hand the evidence of party is not yet commenced. The amendment to the pleading before commencement of evidence is permissible under law. In view of facts set out in the

proposed amendment to the plaint it is necessary to permit the plaintiffs to bring the proposed amendment as sought in the application. If the application is allowed it will not change the nature of suit and no prejudice would be caused to the other side. On the other hand, in order to effective adjudication of the matter in controversy between the parties it is necessary to permit the plaintiff to bring the proposed amendment to the plaint. Moreover, it is burden upon the plaintiffs to prove their case. Further the defendants are at liberty to file additional pleadings to the amended plaint and there was an opportunity to cross examination. Therefore, in order to complete adjudication of the matter in controversy between the parties this court is of the opinion that amendment sought to the plaint is to be allowed. However, the application is filed at belated stage, therefore, same is to be allowed by imposing cost. Hence, I have answered point No.1 in the affirmative.

9. **POINT No.2:** As discussed above, court proceed to pass the following:

ORDER

The application filed by the applicants/ plaintiffs U/o 6 Rule 17 of CPC is hereby allowed on payment of cost of Rs.200/- to the defendant No.3.

The plaintiff is directed to carry out necessary amendment as sought under application and furnish amended plaint.

(Dictated to stenographer directly on computer, typed by him, then corrected, printed and pronounced by me in the open court on this **08th day of November 2024**)

(R.L.HONOLE)
SR. CIVIL JUDGE AND JMFC,
KALAGHATAGI