

IN THE COURT OF CIVIL JUDGE & JMFC.,
KUNDAGOL

PRESENT

Smt. Gayatri.,

B.Com.,LL.M.(IPR)

Civil Judge & JMFC Kundagol.

Dated 13th day of August, 2025

O.S. No.58/2019

PLAINTIFF : Smt. Shantavva @ Neelavva
W/o. Basavaraj Javayi
Age: 60 years, Occ: Household,
R/o. Shiggaon,
Tq: Shiggaon,
Dist: Haveri.

-V/s-

DEFENDANTS : 1. Smt. Somavva
W/o. Yallappa Kamadolli
Age: 58 years, Occ: Household,
R/o. Hiregunjala,
Tq: Kundagol,
Dist: Dharwad,
and others.

PARTIES TO I.A. No.13 AND 14

Applicant/Plaintiff : Smt. Shantavva @ Neelavva
W/o. Basavaraj Javayi

-V/s-

Opponents/Defendants: 1. Smt. Somavva
W/o. Yallappa Kamadolli
and others.

ORDER ON IA NO.13 AND 14

The Applicant/Plaintiff has filed I.A. No.13 under Order VI Rule 17 and I.A. No.14 under Order VII Rule 14 of CPC praying for impleading the property left out in the present suit while filing the suit in the interest of justice and equity.

2. Per Contra, learned counsel for Respondent/Defendant No.10 to 15 has filed memo submitting considering the objections filed by him for I.A. No.13 as objections to I.A. No.14 and prayed for dismissal of applications with exemplary costs.

3. Heard and perused.

4. The following points arise for the consideration of this Court as under;

POINTS

1 Whether the Applicant/Plaintiff has made out sufficient grounds to allow the applications?

2 What order?

5. This court findings on the above points for consideration are as under:

Point No.1 : In the **Affirmative**,

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

REASONS

6. Point No.1:- The present suit is filed by Plaintiff against Defendants for the relief of Partition and Separate Possession of suit properties. The instant applications are filed by Applicant/Plaintiff to include another property in the suit submitting that, recently it has come to her knowledge about the fact of existence of another property which has not been included by her in the present suit and on the said ground she has prayed for allowing the applications.

7. Per contra, learned counsel for Respondent/Defendant No.10 to 15 has filed detailed objections contending that, the affidavit averments are all false and unlawful. The present applications are filed by the Applicant/Plaintiff in order to harass the Defendants. It is contended by Respondent/Defendants that, in spite of sufficient time and opportunity given to Plaintiff she is not proceeding with the matter by leading evidence. They have contended that, in order to drag on the matter she has come up with present applications with fraudulent intention to cause inconvenience and hardship to them. It is false to allege that, due to oversight the application schedule property was left out and was not included in the suit. There are no sufficient grounds made out by the

Applicant/Plaintiff to allow the applications. He with detailed objections has prayed for dismissal of applications.

8. On perusal of rival pleadings the nature of the suit being Partition and Separate Possession as such all the family properties needs to be included in order to effect partition by meets and bounds. It is settled law that, a suit for partial partition is not maintainable. As per Order VI Rule 17 of CPC, no application for amendment of plaint can be allowed by Court after commencement of evidence. On perusal of order sheet on various occasions, the matter was posted for Plaintiff evidence, but till date Plaintiff has not proceeded with the matter by leading evidence. Order sheet also reveals that, the Plaintiff has took sufficient time to take necessary steps to bring the other parties on record. It is due to either parties filing one or the other applications the matter is prolonged and till date the evidence is not commenced.

9. By considering the nature of suit and dispute between parties, when the evidence is yet to be commenced, this Court finds it is just and proper to allow the application. However, it is clear that, allowing application is nothing but causing inconvenience to other side. The said inconvenience caused to other side can be compensated by imposing exemplary cost on the Plaintiff. Hence, without

further discussion this Court proceeds to answer this point accordingly.

10. Point No.2:- In view of the above discussions and the reasons mentioned therein, this court proceeds to pass the following:-

ORDER

I.A. No.13 filed under Order VI Rule 17 of CPC and I.A. No.14 filed under Order VII Rule 14 of CPC are hereby allowed on a total cost of Rs.3,000/- payable to Respondent/Defendants No.10 to 15.

The list of documents taken on record.

It is directed to Plaintiff to proceed with the matter without unnecessary delay.

[Dictated to the Stenographer, transcribed and typed by him, corrected and then pronounced by me in the Open Court on this the **13th day of August, 2025**]

(Smt. Gayatri)
Civil Judge & JMFC.,
Kundagol.
