

ORDERS ON THE IA NO. 7 FILED UNDER ORDER
VI RULE 17 OF CPC

1. The plaintiff has filed the application for amendment of the plaint stating that some of the facts were left out and now the same is sought to be inserted by way of amendment. The plaintiff advocate states that the proposed amendment is necessary for the complete adjudication of the suit. He also states that the proposed amendment would not change the nature of the suit.
2. On the other hand, the defendant No. 1 & 2 have filed the objection to the said application stating that the proposed amendment would change the nature of the entire suit and it should not be allowed at this belated stage, when the case is posted for evidence.
3. The advocate for the plaintiff has filed written arguments.
4. Heard both sides .
5. The point that arises for the consideration of this Court is ***Whether the proposed amendment is necessary for the purpose of determining the real questions in controversy between the parties ?***
6. This Court answers the above point in the **negative for the following :**

REASONS

7. The plaintiff is governed by Muslim Personal Law. She has filed the suit for declaration and to enforce her right of pre-emption. According to the plaintiff, the suit property was 5 ankana house property which is situated at Belavnki village of Ron taluk which is consisting of house and a backyard house, totally measuring 51ft east to west and 20ft north to south bearing VPC 675. And among this, the southern side of two ankanas is said to be the suit property. It is pleaded by the plaintiff that one Allisab had two children by name Allavva and Murthesab , wherein Murthesab died without issues. Allavva is the plaintiff.

8. It is pleaded that the defendant No. 1 is not related to the family of the plaintiff and he has sold the suit property to the defendant No. 2 and 3 on 16/2/2005 through a registered sale deed.

9. Now the plaintiff wants to insert the amendment stating that property located on the souther side is the property of the plaintiff and the defendant No. 1 and they were in joint possession and the plaintiff has got a right over tit and in the first week of November, 2021 when an enquiry was made, she came to know about the sale and came to know the suit property was purchased by the defendant No. 2 and 3 from the defendant No. 1. And immediately she made a Talab

and demanded to sell the suit property back to her and expressed her intention to purchase the property and she called two elder persons and again demanded to the defendant No. 2 and 3 to sell the suit property .

10. It is seen that in the original plaint, all these ingredients with respect to the knowledge has been expressed. Now the plaintiff wants to insert the said amendment. By way of amendment , he wants to insert the pleading with respect to the Talab and other things, which were not in the earlier pleading and the same would amount to filling up the lacunae and would also change the nature of the suit. The said amendment is not necessary for the complete adjudication of the suit.

11. Hence for these reasons, I answer the above point in the negative and proceed to pass the following :

ORDER

The IA No. VII filed under Order VI Rule 17 of CPC on 21/4/2024 is hereby rejected .

For cross of PW-1 by : 21/03/2025

Addl. Civil Judge & JMFC, Ron