

**IN THE COURT OF SENIOR CIVIL JUDGE
CHANNARAYAPATNA**

**PRESENT: GANAPATI GURUSIDDA BADAMI
B.A.L.L.B.(SPL)
SENIOR CIVIL JUDGE & J.M.F.C.,
CHANNARAYAPATNA**

DATED ON THIS 12th DAY OF DECEMBER 2018

O.S.No.59/2017

Plaintiff : Smt.Kempamma K.P. W/o Huchegowda

V/s

Defendants : Sri.K.P.Balakrishna S/o late Pttaswamygowda
and others

**ORDER ON I.A.No.3 UNDER ORDER 6 RULE 17
R/W.S.151 OF CPC.,**

Plaintiff has filed this application seeking amendment of the plaint schedule as prayed in the application.

2) In the accompanying affidavit of the plaintiff, she has stated that, she has filed this suit against the defendants seeking the relief of partition and separate possession of 1/56th share in the suit schedule properties and at the time of filing the suit, due to illiteracy, she could not be able to secure and

furnish the boundaries of the agricultural lands mentioned in schedule-1 to 8 of the plaint and now she could be able to secure them before one month back. She has stated that, the proposed amendment will not change the nature of suit and cause of action and if she is not permitted to amend the plaint as prayed in the application, she will be put to hardship and loss and it will lead to multiplicity of proceedings. Therefore, she prayed to allow the application.

3) Defendant No.1 has filed objections to the application contending that, the application is not maintainable either in law or on facts and plaintiff has filed this suit by suppressing the material facts and to knock off the valuable properties of the defendant No.1 by colluding with other defendants and this court is not at all having jurisdiction to declare the judgment and decree of appellate court as null and void. This matter is posted for cross-examination of PW1 and till date, plaintiff has not at all opted to take proper and warranted legal course in respect of judgment and decree in the suit and plaintiff is not entitled for any relief and application is devoid of merits. If this application is allowed, defendants will be put to loss and hardship and on the contrary, no kind of loss or hardship will be caused to plaintiff. The contents of the written statement may be treated as part and parcel of the objections. Therefore, it is prayed to dismiss the application.

4) Learned counsel for defendant No.2 to 5 and 7 has submitted no objections to I.A.No.3.

5) Heard the learned counsels for both parties on the application and perused the materials on record.

6) Materials on record disclose that, the plaintiff has filed this suit against the defendants seeking the relief of partition and separate possession of her share in the suit schedule properties on the ground that, the suit properties are the joint family properties and she and defendants are in joint possession and enjoyment of the suit properties. At the time of filing the plaint, she has only furnished survey numbers and extent of the landed properties and 6 items in schedule-1, 2 items in schedule-2 and 3, 3 items in schedule-4, 2 items in schedule-5, 6 items in schedule-6 and 2 items in schedule-7 and 5 items in schedule-8. But, she has not furnished the chakabandi of the said properties in the plaint schedule and now by way of amendment, she wanted to furnish the description of the properties with specific boundaries. The proposed amendment will not change the cause of action and relief sought by the plaintiff and it will not change the nature of the suit and it will not lead to introduction of new facts. Therefore, I feel it just and proper to permit the plaintiff to amend the plaint as prayed in the application. So, I proceed to pass the following;-

ORDER

I.A.No.3 under Order 6 Rule 17 of CPC., is hereby allowed.

Plaintiff is permitted to amend the plaint as prayed in the application.

Plaintiff shall carryout amendment and furnish amended plaint within 14 days from the date of order.

(Typed to my dictation by the stenographer, corrected by me and then pronounced by me in the open court on this 12th day of December 2018)

(Ganapati. Gurusidda Badami)

Senior Civil Judge & J.M.F.C.,
Channarayapatna.

