

25.04.2025

ORDER

The applicant/2nd defendant has filed application under Order 6 Rule 17 R/w Sec.151 of CPC., seeking amendment of written statement as sought in application.

2) In the affidavit, it is stated that, the plaintiff has filed suit for partition. Due to oversight 2nd defendant has inserted year 1982 in place of 1995. Therefore, filed instant application.

3) The plaintiff has filed objection and submitted that, the averments in application is not sustainable. Hence, prayed to reject the application.

4) Heard the arguments of counsel for plaintiff and defendants.

5) The points that arise for my consideration are :

1. Whether the amendment sought is necessary for the purpose of determining the real question in controversy between the parties ?

2. What order?

6) My findings on the above points are as under:

Point No.1: In Affirmative

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

:-REASONS:-

7) **Point No.1:** The plaintiff has filed this suit seeking partition with respect to suit schedule property.

8) Now it is adjourned for further cross of PW-1. Now the defendant No.2 come up with instant application seeking amendment of her written statement. Order 6 Rule 17 of CPC reveals that,

Amendment of Pleadings : The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties: Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.

9) The contention of plaintiff is that, the averments in application does not disclose the fact of bonafide reason. It does not help the defendant No.2 to take defence against the relief sought for in plaint. Hence, proposed amendment is not maintainable either in law, facts, probabilities of the case. The proposed amendment will change the nature of written

statement. The amendment which is sought is not at all pleaded in written statement. Hence, prayed to dismiss the application.

10) It is crystal clear that, further cross of PW-1 is not done by defendants and more over the suit is adjourned for further cross of PW-1. In view of all these, as defendant No.2 exercised due diligence before completion of trial, it is necessary to allow the application. Delay can be met by imposing cost. Hence, I hold **Point No.1 is in Affirmative.**

11) **Point No.2:** In view of the discussion made in answering Point No.1, I proceed to pass the following:

ORDER

Application which is filed by the defendant No.2 under Order 6 Rule 17 R/w Sec.151 of CPC., seeking amendment to written statement is hereby allowed by imposing cost of Rs.3,000/-.

Senior Civil Judge and JMFC
Channarayapatna