

KAHS710001652022



IN THE COURT OF CIVIL JUDGE & JMFC.,
AT HOLENARASIPURA.

PRESENT : SMT. CHETHANA B.A., L.L.B.,
Civil Judge & JMFC,
Holenarasipura.

O.S.NO.41/2022

DATED THIS THE 1st DAY OF FEBRUARY - 2025

Plaintiff :-

1. H.L.Pushpalatha,
W/o. Raju,
D/o. Late. Lakkaiah,
Aged about 36 years,
R/at:Ward No.22, Keralapura Road,
Behind Samudaya Bhavan,
Dr.Ambedkar Nagar,
Holenarasipura Town,
Holenarasipoura.
2. Savithri, D/o. Late. Gangamma,
W/o.Late Eraiah,
Aged 52 years,
3. Saroja, D/o. Late. Gangamma,
W/o Late.Eariah,
Aged 50 years,
4. Indramma, D/o. Late.Gangamma,
W/o.Late Eraiah
Aged 47 years,
5. Ajith S/o. Late. Sannappa,
S/o late. Gangamma,

Aged about 24 years,

6. Ramya, D/o. Late Sannaiah,
D/o. Late. Gangamma,
W/o. Late.Eraiah
Plaintiff Nos.2 to 6 are
R/at: Ward No.20,
Behind Police Quarters,
Dr.Ambedkar Nagar,
Holenarasipura Town,
Holenarasipura.

(By Smt.Kavitha, Advocate)

-V/s:-

Defendant/s:

- 1.Rajamma,
S/o.Late. Sannaiah,
Aged about 60 years,
2. Venkatesh,
S/o. Late. Sannaiah
Aged 58 years,
3. Govinda,
S/o. Late. Sannaiah
Aged 56 years,
4. Sakamma,
D/o Late. Sannaiah
Aged 54 years,
5. Rangamma,
D/o. Late. Sannaiah
Aged 52 years,
6. Shivamma,
S/o. Late. Sannaiah,
Aged 50 years,
7. Hema,
D/o. Late. Sannaiah,
Aged 48 years,

8. Harisha,
S/o Late. Sannaiah,
Aged 48 years,

9.Kaveramma,
D/o. Late. Annaiah,
Aged 55 years,

10. Lakshmamma,
D/o. Late. Annaiah,
Aged 55 years,

Def.Nos.1 to 10 are
R/at: Ward No.22,
Keralapura Road,
Dr.Ambedkar Nagar,
Holenarasipura Town,
Holeanasipura.

11. L.Shivaramu,
S/o. Late.Lakshmaiah
Aged 59 years,
R/at: # No.23, Lakshminarayana Nilaya,
L.G. enclave, Nanjappa Circle,
Vidyaranya Puram, Bangalore.

12. Kumaraswamy,
S/o. Late. Lakshmaiah,
Aged 51 years,
R/at: Dr.Ambedkar Nagara,
Harijana Chikka Colony,
Holenarasipura Town,
Holenarasipura.

**(D1 to 10 by Sri.HRM., Advocate
D11 by Sri.MKN., Advocate)**

ORDERS ON IA NO.V

Applicant/s : Smt.H.L.Pushpalatha and Others

-V/s-

Opponents : Smt. Rajamma and Others

i	Provision under which the application is filed	:	Order VI Rule 17 of CPC
ii	Relief sought for	:	Amendment of plaint
iii	The date on which the application is filed	:	27.02.2024
iv	The date on which the objections are filed by different opponents	:	16.04.2024 and 22.04.2024
v	The date on which the orders were passed on the said application.	:	01.02.2025

ORDERS ON I.A. No.V FILED UNDER ORDER VI RULE 17
OF C.P.C

The applicant/plaintiff has filed I.A.No.V under Order VI Rule 17 of C.P.C. and prays the Court to permit her to amend the plaint as sought in the application.

The plaintiff intends to amend the plaint and include the facts as below:

ಉದ್ದೇಶಿತ ತಿದ್ದುಪಡಿ

" ದಾವೆಯ 2ನೇ ಪ್ರಾರದ ಕೊನೆಯ ಸಾಲಿಗೆ ಮುಂದುವರೆದ ಸಾಲುಗಳು ಸೇರಿಸುವುದು ಹಾಗೂ 3ನೇ ಪ್ರಾರದ 14ನೇ ಸಾಲಿನ ನಂತರ ಈ ಮುಂದುವರೆದ ಸಾಲುಗಳನ್ನು ಸೇರಿಸುವುದು ಹಾಗೂ ತೀರ್ಪು ಮತ್ತು ಡಿಕ್ರಿ ಆದೇಶಕಾಕಗಿ ಪ್ರಾರ್ಥನೆ ಭಾಗದಲ್ಲಿ ಎ.ರ ಮೊದಲ ಸಾಲಿನ ಕೊನೆಗೆ ಈ ಸಾಲುಗಳನ್ನು ಸೇರಿಸುವುದು ಷೆಡ್ಯೂಲ್ ಭಾಗದಲ್ಲಿ 4ನೇ ಷೆಡ್ಯೂಲ್ ನಲ್ಲಿ ಸರ್ವೆ ನಂ:43/10 ರಲ್ಲಿ 1.08.00

ಗುಂಟೆ ಎಂದು ಸೇರಿಸುವುದು ಹಾಗೂ 6ನೇ ಷಡ್ಡೂಲ್ ಆಗಿ ಖಾತೆ ನಂ-3680 ನಿವೇಶನ 30 x 37 ಎಂದು ಸೇರಿಸುವುದು ”.

2. In the affidavit annexed to the application, the applicant has stated that, this suit has been filed seeking the relief of partition. Due to oversight, certain facts have been left out to be included at the time of filing the suit. Therefore, it is necessary that, certain fact have to be deleted and certain facts have to be added by amending the plaint. If the application is not allowed plaintiff would be put to irreparable loss and injury. Hence, it is prayed to allow the application.

3. On the other hand, the Defendant Nos.1 to 8 filed objections to this application by stating that, in the application it is not stated as to which fact has to be added and which has to be deleted. The item No.4 of the suit schedule property is measuring 1 acre. The Plaintiff without seeking to amend or delete said 1 acre is seeking to amend as Sy.No.43/10 measuring 1.08.00 guntas. The Plaintiff has sought to include 6th schedule as the property in *khatha* No.3680 site measuring 30 x 37. However, it is not mentioned in the application as to in which village the said property is situated and the schedule also not shown. The Plaintiff has not produced the document in relation to the property sought

to be included. Further, it is not shown in the application as to to whom the said khatha number belongs and reason for including the said property in this suit. This application is brought only with the intention of prolonging the matter. On these grounds, it is prayed to reject the application.

4. The Defendant Nos.9 and 10 have also filed objection by contending that, it is not stated in the application as to which line has to be included by amending the plaint. Only with the intention of prolonging the matter this application has been filed. There is no relationship between the Plaintiff and the property sought to be included. On these grounds, it is prayed to reject the application.

5. Perused the application and documents on record and heard arguments of counsel for the applicant on this application.

6. The following points arise for the consideration of this Court:-

1. Whether the application deserves to be Allowed?

2. What order?

7. On the basis of the pleadings and argument, the above points are answered as under:

Point No.1 : In the Negative

Point No.2 : As per final order

for the following:-

REASONS

8. Point No.1: The plaintiff has filed this suit against the defendant seeking the relief of partition. The Plaintiff has brought this application seeking to amend the plaint. However, for the reasons best known to the Plaintiff it is not clearly stated in the application as to what is the actual amendment which the Plaintiff is intending to carry out. Further, it is not clear as to whether the Plaintiff is seeking to include any aspects or the Plaintiff is also intending to delete any aspects. In the application as well as the proposed amendment sought to be carried out the Plaintiff has not sought anything to be deleted. However, in the affidavit annexed to the said I.A. it is stated that, certain aspects have to be deleted and some other aspects have to be included. But, as aforesaid and also as objected by the Defendants the Plaintiff has nowhere stated in the application what is actually to be included. Except this the item No.4 of the suit schedule property is shown as the property in Sy.No.43/10 measuring 1 acre in the plaint schedule. In the application it is shown as item No.4, 1.08.00 in Sy.No.43/10 has to be included. However, whether the description

of property shown in item No.4 of the plaint has to be retained or deleted is not forthcoming. Moreover, there is no minimum description of property shown with regard to the proposed item No.6 of the schedule property. When such being the case even if the application filed by the Plaintiff is allowed it does not serve any purpose. But, it may leads to confusion. Therefore, this Court is of the opinion the plaintiff/ applicant has not made out any grounds to allow the application. Accordingly, point No.1 is answered in the **Negative**.

9. Point No. 2: For the reasons stated while discussing point No.1, this Court proceed to pass the following;

ORDER

I.A.No.V filed by the applicant/ plaintiff
under Order VI Rule 17 of CPC is hereby
dismissed
No order as to costs.

(Dictated to the stenographer directly on to the computer typed by her, transcript revised, corrected and then pronounced by me in the open court on this the **01st day of February - 2025**)

(SMT. CHETHANA)
Civil Judge & JMFC
Holenarasipura.