

OS 203 of 13 dated 29.02.2024

ORDERS ON APPLICATION FILED UNDER ORDER 6 RULE 17
OF THE CODE OF CIVIL PROCEDURE

1. The present application has been filed at the stage of further evidence.

The Plaintiff seeks to amend the plaint in so far as it pertains to the prayer column and an additional paragraph with regard to the acquisition proceedings in respect of suit items No.5 and 6 and it is contended that the documents pertaining to these aspects were obtained recently and that the proposed amendment would not change the nature of the suit. The 4th Defendant has objected to the said application contending that the land in respect of which amendment is sought has already been acquired and since the property does not exist the amendment sought cannot be permitted.

2. Having heard the learned counsel for the parties the points that arise for my consideration are

1. Whether the Plaintiff could be permitted to amend the plaint as sought for?

3. My answer to the aforesaid point is in the *Affirmative* for the following:

REASONS

4. The suit is one for partition. Under such a circumstance it is imperative that all the family properties are thrown into the hotchpot. Pleading is not proof. Merely because the Plaintiff amends the plaint and includes additional properties would not mean that a share in the same would automatically be given to the Plaintiff in the said properties. The question as to whether the said land has indeed been acquired is one which would have to be examined after necessary documents with regard to the same are placed on record. Further it is to be seen that the Plaintiff, if ultimately the land is acquired, would only be entitled to a share in the compensation awarded in the said acquisition proceedings. It is to be further noted that the Appellate Court in RA 49 of 2019 had remanded the matter to

this Court for fresh disposal and has further directed this Court to receive additional pleadings and additional evidence if any from all the parties to the suit. Under such a circumstance rejecting the present application would be in violation of the orders of the Appellate Court. Therefore I pass the following:

ORDER

The application filed by the Plaintiff seeking amendment to the plaint is allowed. The Plaintiff shall amend the plaint and file amended plaint on or before 13.03.2024 Call on 13.03.2024.

(PRAVEEN.R.J.S)
CIVIL JUDGE HOLENARSIPURA.