

### **ORDERS ON IA NO.X AND XI**

The plaintiffs have filed IA No.X U/o 7 rule 14 R/w Sec.151 of CPC for permission to produce list of documents and IA No.XI U/o. 6 rule 17 R/w Sec.151 of CPC for amendment of plaint and schedule.

2. The defendants have filed common objections to IA No.X and XI.

3. Heard, perused, the present suit is filed for partition and separate possession and present applications have been filed at the stage of cross examination of PW-1.

4. The plaintiff contended in the affidavit annexed in the IA No.XI that, due to typing error, extent of suit schedule B and C wrongly typed. The said mistake is only a bonofide mistake and intended to rectify the same and the proposed amendment will not change cause of action and nature of the suit. The plaintiff further contended in the affidavit annexed to the IA No.X that, they have obtained some documents which are essential to decide the case and furnishing list with documents.

5. The defendants contended in the objections that, plaintiff already examined as PW-1 and partly cross examined, when the evidence was commenced applications are not maintainable. The RTC extracts are already produced in the suit. The plaintiffs have filed false applications to harass the defendants and prays to dismiss the applications and also relied on the decision of Hon'ble High Court of Karnataka 2016(2) KLJ 700 in between Rangaswamayya Vs H A Shek Hussain.

6. The plaintiffs intended to amend the extent of petition schedule properties B and C. As per the plaint claiming partition in an extent of 6 acres each in Sy. no.9/1 and 89/2. Now plaintiff intended to amend the extent 3 acres in Sy. No.9/1 and 5 acres in Sy. No.89/2. The defendants set up a defence of prior partition on the basis of family arrangement deed. They have not specifically disputed the extent of said properties. These circumstances shows that, the plaintiffs or defendants have not raised matter before the commencement of trial.

7. The plaintiffs cannot claim excess extent of schedule properties which not belongs to the family of plaintiffs and defendants. If the amendment application is not allowed and extent is not rectified, it will cause difficult in drawing final decree and division of properties and handing over possession of shares of parties. In order to avoid multiplicity of proceedings and to give complete justice and to resolve the dispute between parties, applications can be allowed. The facts of the present case and case relied by the defendants are different one. The suit is pending since 2018 and if the applications are not allowed it was cause more delay. There are no material grounds to reject the applications. Hence, I pass the following:

### **ORDER**

IA No.X U/o 7 rule 14 R/w  
Sec.151 of CPC filed by  
plaintiffs is here by allowed  
and list of documents taken  
on record.

IA No.XI U/o. 6 rule 17 R/  
w Sec.151 of CPC filed by  
plaintiffs is hereby allowed  
and plaintiffs are permitted to  
amend the plaint and  
schedule as sought in the  
application.

For amendment and to file  
amended plaint by  
23.11.2023.

**(Prakash V.)**  
**Prl. Sr. Civil Judge and CJM,**  
**Haveri.**