

**IN THE COURT OF THE SENIOR CIVIL JUDGE AND JMFC AT
SEDAM**

PRESENT: SRI. VIJAYKUMAR S. JATLA

**B.Sc., LL.B.
Senior Civil Judge & JMFC, Sedam**

DATED THIS THE 25th DAY OF OCTOBER-2021.

O.S.No.93/2018

Plaintiff : Mahadevamma and Others.

Versus

Defendants : Basalingamma and others.

Order on I.A.No-VII U/o 6 Rule 17 of CPC filed by plaintiffs

This is an interlocutory application is filed by the plaintiffs seeking amendment of plaint.

2. The proposed amendment is that;

In the end of item No.10 in the suit schedule property, following be inserted.

“Having following boundaries East: Land of Devindrappa Bhimalli, Sharanabassappa Jogi and Shashikala Valabhreddy West: Land of Basawaraj Basreddy Sugur, North: Land of Venkatreddy Kodangal, South: Land of Devakamma Sharanappa Vallabhreddy”

In the end of item No.11 in the suit schedule property, following the inserted.

“Having following boundaries East: Land of Cart Track Hanadi, West: Land of Erappa Devindrappa Vallabhreddy, North: Land of Channayya Erayya, South: Land of Kalavati Sharanappa Chandapur“

In the end of item No.12 in the suit schedule property, following be inserted.

Sy. No.251/1 measuring 4 acre 2 gunta with R.A of Rs.10.24 Ps situated at village R/o Benakanahalli, Tq: Sedam having following boundaries East: Land of Ananthreddy Ayyanna, West: Land of Nala, North: Land of Gurunath Chandanna Kamar, South: Land of Shivalingreddy Sharbupalreddy Patil.

In the end of item No.13 in the suit schedule property, following be inserted.

Having following boundaries East: Galli and Well, West: House of Sharanappa Telmani Valbreddy North: Galli, and South: Suit house bearing No.2-37.

The item No.13 in the suit schedule property be amended as under “ House with open place bearing No.2-37 situated at village Benakanhalli, Tq: Sedam having boundaries, East: Galli and well , West: House of Nagreddy Basreddy Valbreddy, North: Galli and thereafter suit house No.2-31 and South Open place of Chennareddy Patil.

3. Advocate for plaintiffs contended that, the suit is filed for partition and separate possession. The suit lands item No.10 to 12 are extent lands and therefore their boundary is required to decide the case. The suit item No.13 and 14 are houses and their boundary is also required to decide the case on merit. The suit item No.14 number is wrong it is 2-37. due to oversight the boundary of suit items No.10 to 14 is not given in the plaint, the same is required for deciding the case. Due to typing error the house No.2-37 is mentioned as 2-31 while computing and the same went unnoticed. If the amendment is not allowed it will lead to filing of another suit. If it is allowed no prejudice will be caused to the other side and on the other hand the matter will be finally decided in the present suit itself. Hence, it is just and proper to permit the plaintiffs to amend the plaint as per proposed amendment.

4. Advocate for defendant No.1 to 6 filed objections taken contention that, The application filed by the plaintiff is not maintainable either under laws or on facts; hence the application deserves to be dismissed. The application filed U/o VI Rule 17 pertaining to O.S No.40/2018 and not of this case. It seems that, the application which required to be filed in O.S No.40/2018 has wrongly been filed in this case. Therefore, the application deserves to be dismissed. Any other grounds would be urged at the time of

arguments with due permission of the Hon'ble court and with due notice to other side. The Hon'ble court may be pleased to dismiss the I.A No.VII filed by the plaintiff U/o VI Rule 17 of CPC, with exemplary cost, in the interest of justice.

5. On the basis of the above pleadings and on hearing both sides, the following points arise for my consideration are:

- 1) Whether the plaintiffs have made out grounds to allow I.A.No.VII under Oder 6 Rule 17 of CPC?
- 2) What order?

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

Point No:1 : In the Affirmative.

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

REASONS

7. Point No.1:- The case of the plaintiff and defendants No.1 to 6 is as discussed above. This is a suit for Partition and Separate possession and Mesne profits in the respect of suit schedule properties. This application is filed by the plaintiff for proposed amendment of plaint when the matter is posted for plaintiff evidence.

8. Advocate for plaintiff contended that the proposed amendment is very much essential for proper adjudication of the

matter. Further contended that the proposed amendment does not change the nature of the suit and will not introduce the new case. If the application is not allowed then the plaintiff will put to greater hardship and it will leads to multiplicity of proceedings.

9. Advocate for defendant No. 1 to 6 contended that the present amendment is not required as there are no reasonable grounds to allow the same. Further contended that the application filed after lapse of two years and the amendment will change nature of the suit, hence prayed for dismissal of the application.

10. On perusal of the I.A No.VII and objections it is seen that the plaintiff filed suit for Partition and Separate possession and Mesne profits for against the defendants. The proposed amendment which is sought by the plaintiff is filed at the time when the matter is posted for plaintiff evidence. The defendant taken contention plaintiff filed the present application for amendment of the plaint without any grounds. The proposed amendment is very much essential for proper adjudication of the matter. The proposed amendment will not change the nature of suit and it is essential for proper adjudication of dispute. If the amendment is not allowed the plaintiffs are deprived of put forth their case effectively and it will leads to multiplicity of proceedings. The plaintiffs made out the valid

and justifiable grounds to allow I.A No.VII U/o 6 Rule 17 of CPC. In the light of above reasons **I answer Point No.1 in the Affirmative.**

11. Point No.2:- As I have answered point No. 1 in the Affirmative for the foregoing reasons, I proceed to pass the following:

ORDER

IA-VII Under Order 6 Rule 17 of CPC filed by
the plaintiff is allowed.

Plaintiff is directed to amend the plaint.

(Dictated to the directly on computer and corrected by him and then pronounced by me, in the open Court on this the **25th day of October-2021** at Sedam)

Senior Civil Judge & JMFC.,
Sedam.