

ORDERS ON IA No.III

The counsel for plaintiff has filed IA No.III U/o VI Rule 17 r/w Sec.151 of CPC., seeking proposed amendment as indicated therein, to insert items No.5 to 7 and also rectification of name of father and grandfather of the

defendants and others as indicted therein.

2. In an accompanying affidavit, the plaintiff No.2 submitted that, there was spelling mistake with respect to names of father and grandfather even in the genealogical tree, to insert items No.5 to 7, to sought relief in respect of Will and Gift deeds dated 30.09.1974. Hence, now seeking an amendment to that effect. The said fact is to be amended and same is just and necessary for proper adjudication of the case. If the application is allowed, no harm will be caused to the defendants. Hence, prays to allow the application.

3. On the other hand, the learned counsel for the defendants filed **objection** and contended that, instant application is not maintainable. Item No.5 was purchased by S.V. Narayanappa and item No.6 was purchased by C.M. Srinivas and who has sold in favour of defendant No.1. Item No.7 was acquired by Lakshamma from her mother vide Gift deed dated 06.12.1974. Said three properties are self-acquired properties of Smt. Lakshamma, who has sold the same for her family necessities. The plaintiff has intentionally trying to insert para No.9 to cause trouble to the defendants. Hence, prays to dismiss the application with cost.

4. Heard the learned counsel for either side and perused the records of the case.

5. The following points arise for my consideration;

1. Whether the applicant/plaintiff No.2 has made out sufficient grounds to allow IA No.III filed U/o VI Rule 17 r/w Sec.151 of CPC?

2. What order?

6. My answers to the above points are as under;

Point No.1 : In the **Affirmative**

Point No.2 : As per the final orders
for the following;

: R E A S O N S :

7. Point No.1: Before considering an application for

amendment of the plaint filed at IA No.III, it is necessary to consider some back drop facts. Plaintiffs have filed this suit for the relief of partition and separate possession. The defendants have contested the suit on various grounds and this Court framed issues on 13.06.2025. When case set-down for plaintiff's evidence, present application is filed to amend plaint at 10 portions.

8. Under such circumstances, the core question arises for consideration is whether leave is to be granted to the plaintiff to amend the plaint as prayed in this application.

9. On careful scrutiny of Order VI Rule 17 CPC, it is clear that, the Court may at any stage of the proceedings allow either of the parties to alter or amend their pleadings provided such amendment is just and necessary for the purpose of determining the real question in the controversy between the parties.

10. It is legislative mandate that, pleadings can be amended at any stage of the proceedings so as to narrow down the controversy between the parties. However, this rule is subject to the rider that once trial has begun unless it is shown by the parties that inspite of exercising due diligence, they could not amend the pleadings prior to commencement of trial, such application seeking amendment of pleadings cannot be entertained. Here in this case, trial is yet to commence.

11. Hon'ble Supreme Court of India in **REVAJEETU BUILDERS & DEVELOPERS -Vs.- NAGARAJ SWAMY & Ors-(2009) 10 SCC 84**, has laid down the principles regarding entertaining amendment application as under;

"6. On critically analysing both the English and Indian cases, some basic principles emerge which ought to be taken into consideration while allowing or rejecting the application for amendment.

- a) whether the amendment sought is imperative for proper and effective adjudication of the case;
- b) whether the application for amendment is bonafide

or malafide; the amendment should not cause such prejudice to the other side which cannot be compensated adequately in terms of money;

- c) refusing amendment would in fact lead to injustice or lead to multiple litigation;
- d) whether the proposed amendment constitutionally or fundamentally changes the nature and changes the nature and character of the case; and
- e) As a general rule, the court should decline amendments if a fresh suit on the amended claims would be barred by limitation on the date of application.

These are some of the important factors, which may be kept in mind while dealing with application filed under Order 6 rule 17. These are only illustrative and not exhaustive.”

12. No doubt that, the plaintiff has sought amendment prayed for when the case posted for plaintiff's evidence. It is settled law that, amendment application can be allowed, even after commencement of the trial, if Court comes to the conclusion that, proper adjudication of the lis is just and necessary. The contention of the defendants is that, proposed items No.5 to 7 are self-acquired properties of Smt. Lakshamma is to be addressed in the trial. The other amendment sought is formal in nature, except relief sought in respect of Will and Gift deed dated 30.09.1974. Whether partition effected by metes and bounds or not is to be decided by way of trial on the basis of oral and documentary evidence of either parties. Hence, the Court cannot make any opinion at this juncture.

13. Proposed amendment would assist the Court for real adjudication of lis between the parties. It can be concluded that, the amendment of pleadings cannot be claimed by the party as a matter of right, nor can be denied by the Court arbitrarily. However, the discretion to be exercised by the Court is guided by the principles mentioned herein above and depends on the facts and circumstances of each case. Thereby, the plaintiff has made out due diligence at this juncture. If instant application is not allowed, it will

lead to multiplicity of proceedings. Hence, the hardship if any caused to other side can be met with by imposing cost by taking into consideration of date of filing of this suit, conduct of the parties and stage. Therefore, IA No.I filed by plaintiff U/o VI Rule 17 r/w Sec.151 of CPC., deserves to be allowed. Hence, in order to do complete justice to the parties and to avoid delay and multiplicity of proceedings, **point No.1** is answered in the **Affirmative**.

14. Point No.2: In view of the above reasons, I proceed to pass the following;

ORDER

IA No.III filed U/o VI Rule 17 r/w Sec.151 of CPC., by the plaintiff is hereby ***allowed*** on cost of Rs.1,000/-.

The proposed amendment mentioned in IA No.III is permitted to be carried out in the plaint.

To carry out amendment and to furnish amended plaint.

By:**12.01.2026.**

**Prl. Civil Judge & JMFC.,
Mulbagal**