

IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC,
MULABAGILU

Present:- Smt. Sujatha Suvarna B. B.Com., LL.B.,
Senior Civil Judge & JMFC, Mulabagilu

Dated this the 5th day of November, 2020

O.S.No.30/2019

Plaintiff : Smt. G. Lalitha,
Aged about 44 years,
D/o late G.C.Narayana Reddy,
W/o V.Srinivasa Reddy,
R/at No.38/56, Surveyour Street,
Basavanagudi, Bengaluru – 560004.

(By Sri. R.R.G- Advocate)

-V/s-

Defendants: 1. Sri. G. Ramesh Reddy,
Aged about 47 years,
S/o late G.C. Narayana Reddy

2. Sri. G. Chandramouli Reddy,
Aged about 43 years,
S/o late G.C.Narayana Reddy

Defendant No.1 and 2
R/at N.Gaddur Village, Nangali Post,
Byrakur Hobli,
Mulbagal Taluk – 563132.

3. Sri. N.Manjesh Reddy,
Aged about 38 years,
S/o late G.C.Narayana Reddy,
Working as Turner,
Machine shop department,
B.E.M.L., KGF – 563115.

4. C. Venkatamuni Reddy,
Aged about 66 years,
S/o late Changa Reddy,
R/at N. Yeluvahalli Village,
Nangali Post, Byrakur Hobli,
Mulbagal Taluk – 563132.
 5. M. Bhujangaraju,
Aged about 52 years,
S/o late Muniraju,
R/at No.9, 1st 'G' Main Road,
J.C.Nagara, Nandini layout,
Bengaluru – 560096.
 6. V. Hari Reddy,
Aged about 52 years,
S/o late N.Veerarwamy Reddy
 7. Mr. H. Shylesh Aadithya,
Aged about 26 years,
S/o V. Hari Reddy
 8. Mr. H. Shreyes Aadithya,
Aged about 23 years,
S/o V.Hari Reddy
 9. Smt. Jyothishree Hari Reddy,
Aged about 46 years,
W/o V.Hari Reddy
- Defendant No. 6 to 9 are
R/at No.98, 2nd Cross, 3rd phase,
5th Block, Banashakari, 3rd Stage,
Bengaluru – 560085.
10. Special Land Acquisition Officer and
Competent Authority,
National Highway Authority of India,
No.678/3, Neerabhavi Kempanna
Layout, Hebbal, Bengaluru – 560024.
(D1 to 4 – Sri. PNS – Advocate)
(D5 – Exparte)
(D6 to 9 – Sri. PMS/NS – Advocate)
(D10 – Sri. N.S. – Advocate)

RANK OF THE PARTIES ON I.A.NO.VI & XII

Applicant/Defendant : Smt. G. Lalitha

V/s

Opponent/Plaintiffs : Sri. G. Ramesh and others

ORDERS ON I.A. NO.VI & XII

The Plaintiff has filed I.A.No.VI and XII under order 6 Rule 17 r/w 151 of the CPC and prays to permit her to amend the plaint by incorporating the proposed amendment as sought in the applications.

2. In support of the IA No.VI the Plaintiff filed affidavit and stated as follows:

The Plaintiff filed the suit against the Defendants for the relief of partition, declaration and other consequential reliefs with respect of suit schedule properties. She got 1/4th share in the suit schedule properties, one of the suit property measuring east to west 25 feet which is item No.5 of the plaint schedule 'B', but in line 14 at para 7 at page No.6 of the plaint instead of east to west 25 feet by typographical error shown as east to west 50 feet and the serial numbers of the schedule-A after item No.9 to be continued as item No.10 and 11 instead of 9 and 10, which are typographical errors. The defendant No.1 to 3 are in joint possession and enjoyment of the proposed schedule property and the said properties are left out while filing the suit. She recently came to know that the said property has not included in the plaint and schedule. By over sight it has been left out. The

amendment sought for does not introduce a new case nor and it will not change the nature of the suit or cause of action.

3. In support of the IA No.XII the Plaintiff filed affidavit and stated as follows:

The Plaintiff filed the suit against the Defendants for the relief of partition, declaration and other consequential reliefs with respect of suit schedule properties. She got 1/4th share in the suit schedule properties, at the time of filing of the suit in the eastern boundary of item No.1 of suit schedule-A property has been mentioned as Sy.No.264/2 instead of Sy.No.264/2 and lands of Channa Reddy and on southern boundary of item No.1 of the Schedule-A property is NH4, presently NH75 and land bearing Sy.No.264/2. The eastern boundary of item No.2 of the suit schedule-A property has been shown as 263 instead of 263/3 and western and northern boundary of item No.2 of the suit schedule-A property has been shown as 264/2 and 264/3 respectively instead of 264/1 and 264/1. In item No.3 of the schedule-A property, the measurement of Sy.No.255/6 has been wrongly shown as 12 guntas instead of 14 guntas. The extent of land bearing Sy.No.255/6 has been correctly described in the plaint whereas in the schedule has wrongly shown as 12 guntas instead of 14 guntas. She stated that the said mistakes are purely bonafide and typographical errors.

4. The subject matter of the suit consisting immovable properties having constructed structure. Hence it is necessary and essential to amend the plaint, the amendment sought in the applications are only on explanation to the original defence filed by her, hence the amendment of the plaint is necessary for the

proper adjudication of the facts. If these applications are not allowed, she will be put to great hardship and injury on the other side no prejudice will be caused, hence prayed to allow the applications.

5. Per contra, the Defendant No.6 has filed objections and stated that the applications filed by the Plaintiff is not maintainable either in law or on facts, Plaintiff has sworn false facts in her affidavit, the Plaintiff herself not knowing the boundaries of the suit schedule properties. In the plaint averments it has been shown that in the para No.10 regarding the suit of O.S.No.207/2012 and since from the said suit i.e., O.S.No.207/2012 the Plaintiff of the suit have not taken the contention of the false boundaries, boundaries furnished in the said suit i.e., O.S.No.207/2012 and then the Plaintiff has filed this suit in the year 2019. The Plaintiff has not taken the contention of wrong boundaries in the above said suit i.e., O.S.No.207/2012. The application filed by the Plaintiff is barred by limitation. Hence prayed to reject the applications.

6. Heard the arguments.

7. The points that arise for my consideration is as follows:

1. Whether the applicant/Plaintiff proves that the proposed amendment is just and necessary to decide the controversy between the parties?

2. What order?

8. My answer to the above points are as follows:

Point No.1	-	In the Affirmative
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Point No.2	-	As per the final order, for the following:
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REASONS

9. Point No.1:-

It is the contention of the Plaintiff that due to over sight some of the properties are not included at the time of the filing of the suit and due to typographical mistake the boundaries and measurement are wrongly typed, hence it is just and necessary to amend the plaint.

10. Under Order 6 Rule 17 of CPC, reads as:

As per Order VI Rule 17 the court may at any stage of proceeding allow, either party to alter or amend his pleadings in such term as may be just and all such amendments shall be made as may be necessary for determining the real questions in controversy between the parties.

Order 6 rule –17 of CPC empowered the court to permit the parties to amend their pleading. The proposed amendment will not affect to the cause of action and nature of suit also not changed. Further, it is established principle that the amendment application has to be liberally dealt with and whenever it is made out that amendment is necessary to elucidate the matter in dispute and to avoid the multiplicity of the proceedings then such application has to be allowed.

11. Admittedly, the Plaintiff has filed the suit against the Defendant for the relief of for partition and separate possession of the suit schedule property. The amendment sought by the

Plaintiff will not change either nature of the suit or cause of action. If application is not allowed the Plaintiff will be put to greatest hardship and loss and it may cause multiplicity of proceedings. Hence, this court feels that to avoid multiplicity of the proceedings and in the ends of justice, it is just and necessary to permit the Plaintiff to amend the Plaint and amendment sought by the Plaintiff is just and necessary to decide the real controversy between the parties. Accordingly this Court is answered point No.1 in the ***Affirmative.***

12. **Point No.2**:- In view of the findings on the above Point, I proceed to pass the following;

ORDER

I.A.No.VI and I.A.No.XII filed by the Plaintiff
under Order VI Rule 17 R/w Sec.151 of C.P.C.,
is hereby allowed.

(Dictated to the Stenographer directly on the computer, corrected, initialed and then pronounced by me in open Court on this 5th day of November, 2020)

(Sujatha Suvarna B)
Senior Civil Judge and JMFC,
Mulbagal