

### **ORDERS ON IA No.32**

This application is filed by the plaintiff under Order VI Rule 17 read with Section 151 of CPC seeking amendment of the plaint as detailed in the application.

2. In the affidavit filed to the application, it is stated that the present suit is filed for partition and separate possession. The mother of the plaintiff, who was the defendant No.1, died during the pendency of the suit. She bequeathed her share in the suit's properties in favour of the plaintiff. Therefore, the plaintiff filed IA No.27 under Order XXII Rule 10 of CPC to implead himf as legal representative of defendant No.1 by virtue of Will dated 24.07.2015. The said application was rejected by this court. The plaintiff preferred writ petition No.6745/2026 against the order

of this court passed on IA No.27. In the writ petition, the order passed by this Court on IA No.27 is set aside. The plaintiff is seeking his share as well as share of her mother in the suit schedule property as per Will executed by his mother. Therefore, it requires proper and adequate prayer in the plaint. The defendant No.5 executed sale deeds in favour of defendant No.9 to 11 during the pendency of the suit. Therefore, the plaintiff amended his plaint by including para number 5A in the plaint about the sale deeds executed in favour of the defendant No.9 to 11. Therefore there is necessary to include prayer in respect of the said sale deeds. Hence this application is filed seeking permission to include prayer.

3. The defendant No.5 and 6 filed objection to the application and denied the entire averments made in the affidavit filed to the above application as false. The amendment sought will alter the nature of the suit and cause of action. It will prejudice the case of the defendants. The plaintiff has not given reasonable explanations for filing this application at this belated stage. The evidence is already commenced. As per the amended provision of CPC, the application for amendment cannot be allowed at this stage. Hence, it is prayed to dismiss the application.

4. Heard and perused.

**5. The point that arises for my consideration is as follows ;**

*Whether the plaintiff has made out sufficient grounds to amend the plaint at this stage?*

6. My answer to the above point is in the **Affirmative** for the following ;

### **REASONS**

7. The present suit is filed for partition and separate possession in the year 2012. The defendant No.1 died during the pendency of the suit. It is the case of the plaintiff that she bequeathed her share in suit schedule property in his favour through Will. It is also his case that the defendant No.5 executed sale deeds in favour of defendant No.9 to 11 during pendency of the suit. The plaintiff has included averments about the above stated allegations. The present application is filed to include prayer in respect of the said averments. Therefore, it is just and necessary to allow the application. Accordingly, above point is answered in the **Affirmative**. Hence, this court proceeds to pass the following:

### **ORDER**

IA No.32 filed under order 6 rule 17 of CPC is hereby allowed.

For amendment and for  
amended plaint. Call on  
29.06.2026.

**I-Addl. Senior Civil Judge & JMFC.,  
Maddur.**