

ORDER ON IA No.16

This application is filed by the plaintiff under Order 6 Rule 17 of CPC for amendment of the plaint as sought for.

2. In the affidavit filed to the application, it is stated that the present suit is filed for partition and separate possession. At the time of filing suit, what the plaintiff had knowledge about the properties, he secured documents and included the said properties in the suit. The defendants in their written statement have taken up contention that suit is bad for partial partition and non-inclusion of other family properties. But due to oversight and inadvertence some of the properties were not included at the time of filing the suit. After filing of written statement by the defendants, the plaintiff further enquired and secured documents regarding some more properties. She has been advised to include the said properties in the suit. Non-inclusion of the properties is not intentional. Therefore, the present application is filed to permit the plaintiff to include Item No. 2(a) properties and 3 properties as Item No. 9 to 11 properties.

3. In the objection filed to the application, it is stated that the plaintiff filed the false suit against the defendant in order to harass the defendants. The valuation of the suit is not proper. This Court has no jurisdiction to entertain the suit. The plaintiffs has not produced documents in respect of the proposed

properties intended to be included to the suit schedule. She has not produced document to show that they are ancestral properties. Therefore, 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 permit him to amend the plaint as sought for?

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

REASONS

7. The present case is filed for partition and separate possession. The defendants have filed their written statement and contended inter alia that the suit is bad for non-inclusion of all the family properties. The plaintiff through the above application intends to include 3 item to the suit schedule and also to make correction in Item No. 2 property. In the affidavit filed to the application it is stated that the plaintiff could secure the documents in respect of the properties what she had knowledge at the time of filing the suit. After filing of written statement, she verified the documents and came to know about the properties to be included in the suit. The nature of suit will not be changed if Plaintiff is permitted to amend the plaint. In order to adjudicate the dispute

between the parties on merits, it is just and necessary to permit the plaintiff to amend the plaint as sought for. Suit for partial partition is not maintainable. Therefore, it is just and necessary to allow the plaintiff to amend the plaint as sought for. Accordingly, the above point is answered in the **“Affirmative”**. Hence, this court proceeds to pass the following:

ORDER

IA No.16 filed under Order 6
Rule 17 of CPC is hereby
allowed.

The plaintiff is permitted to
amend the plaint as sought for.

For amendment and for
amended plaint call on
04.082026

(MOHANAKUMARI N.B.)
I-Addl. Senior Civil Judge & JMFC.,
Maddur.