

IN THE COURT OF THE PRINCIPAL CIVIL JUDGE & J.M.F.C,
NAGAMANGALA

PRESENT:

Sri. Shivaraju H.S.
B.A.Law., L.L.B,
Prl. Civil Judge & JMFC, Nagamangala

O.S.No.67/2021

DATED THIS 17th DAY OF FEBRUARY-2026

Plaintiff : Smt.Yashodamma
R/by her GPA holder B.S.Raju.

Versus

Defendants : D.L.Lakshmanagowda and others

PARTIES IA No.XII

Applicant : B.S.Raju.

.... GPA holder Plaintiff

(By Sri.K.M.P., Advocate)

Versus

Opponents : D.L.Lakshmanagowda and others

.... Defendants

(Sri.S.L., Advocate for defendant No.1 & 3)
(Sri.M.P.P.S., Advocate for defendant No.2)

ORDER PASSED ON I.A.NO.XII**THE PRESENT APPLICATION IS CAME TO BE FILED WHEN
MATTER WAS HEARD BOTH SIDE ON MERITS AND PENDING
FOR FURTHER EVIDENCE OF PLAINTIFF**

Applicant/plaintiff has filed this application under Order VI Rule 17 R/w Section 151 of CPC seeking amendment of plaint i.e., insertion of proposed amendment.

2. It is stated in the affidavit of PA holder of plaintiff filed in support of application that, he is well acquainted with the facts and circumstances of the case. His mother/plaintiff has filed this suit against the defendants for the relief of partition and separate possession in the suit properties. That, during the pendency of the suit, defendant No.1 being khatha holder of item No.3 has received the compensation amount of item No.3 without the knowledge and consent of plaintiff. As such, the proposed amendment is insertion of compensation amount of item No.3. Therefore, it is necessary to amend the plaint as per proposed amendment. It is further stated that if the application is allowed, no hardship will be caused to the defendants and on the other hand, if the said application is rejected, plaintiff will be put into irreparable loss and hardship will be caused. Hence, prays for allow the application.

3. The defendant No.1 and 3 have resisted the application by way of filing written objection. In the objection, it is contended that, item No.3 was allotted to the share of defendant No.1 and khatha of item No.3 is in his name. As such, he has received the compensation amount. There are many properties belonging to ancestral and joint family properties as stated in the written statement of defendant No.1. The plaintiff has not included the same. But, she wants to implead the compensation amount of item No.3 which would amount partial partition which is not permissible under the law. Hence, the application is not maintainable and prayed to dismiss the same.

4. Heard both the Counsel and perused the record.

5. Upon hearing and on perusal of materials placed on record, the following points that would arise for my consideration:-

POINTS

1. Whether the plaintiff has shown that the proposed amendment is just and necessary in this case for proper adjudication of the dispute?

2. What order?

6. My findings to 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 plaintiff has filed this suit against the defendants for the relief of partition and separate possession.

8. Before advertng to the rival contentions of the parties, it is useful to refer the ratio laid down by the Hon'ble High Court of Karnataka in ***ILR 2003 KAR 71 (Kumar and others v/s Kothandapani)*** which reads thus :

"3. CPC.1908(Central ActNo.V of 1908)-Sec 115-order 6, Rule 17-The respondent/plaintiff in a suit for permanent injunction against the petitioners filed IA.No.7 Under 6 Rule 17, CPC seeking additional relief of mandatory injunction on the ground that certain constructions have been put up during the pendency of the suit and the said IA., was allowed by the Trial Court. The petitioners opposed IA.7 on the ground that the proposed amendment will change the nature of the suit and therefore the order of the Trial Court warrants interference in revision.

HELD: The Amendment appears to have been necessitated on account of subsequent events, which took place during the pendency of the suit.

That being so, in order to avoid multiplicity of suits, the Respondent/plaintiff thought it proper to amend the plaint suitably which cannot be said to be either improper or incorrect. Even otherwise, it will not in anyway change the nature of suit... The proviso to sub-section 1 of Sec. 115 of CPC puts a restriction on powers of the Court as this Court shall not vary or reverse any order made except where the order made would have finally disposed of the suit or other proceedings or the said order would occasion a failure of justice or cause irreparable injury to a party against whom it is made."

9. In the instant case, the plaintiff has sought amendment of plaint i.e., insertion of proposed amendment in respect of compensation amount of item No.3. Per contra, defendants opposed the application by contending that, plaintiff has not included all the family properties, but only filed this application to include the compensation amount of item No.3. As such, application is not maintainable.

10. The proposed amendment is with respect to insertion of compensation amount of item No.3. According to the plaintiff, all the suit properties are ancestral and joint family properties of parties to the suit and she has got share in the same. On the other hand, as per the version of defendants, already partition is taken place as per Palu-

Patti dated 17.05.1994 and item No.4 was allotted to his share.

11. Here in the case on hand, whether already partition is effected and item No.3 was given to defendant No.1 as per the version of defendants is to be decided on merits of the case. So, at this stage, it cannot be concluded that partition was effected and item No.3 was given to defendant No.1. To decide the very said fact, the proposed amendment is necessary. Further, the plaintiff has not included all the ancestral and joint family properties of parties to the suit is not a ground to reject the present application. At the most, the plaintiff can be directed to implead the family properties left out by her. As such, that is not a ground to reject the present application. The suit is being one for partition and separate possession over the suit properties, the proposed amendment in respect of compensation of one of the suit property is necessary to decide the matter. As such, if the application is not allowed, the plaintiff will be put into great loss and hardship. Further, the proposed amendment is touching the very root of the case. As such, this court is of the opinion that, it is just and proper to allow the plaintiff to amend the plaint. Otherwise, it would cause injustice to either parties to the suit. If amendment is allowed, no cause of action nor nature of suit will change.

12. Therefore, this court is of the opinion that, if opportunity is given to the plaintiff for amendment, no hardship would be caused to the defendants. Further, defendants are at liberty to file additional written statement. ***Hence, considering all these aspects and ratio laid down in the decision referred supra, this court answered the Point No.1 in the Affirmative.***

13. **Point No.2:-** In view of the reasons assigned in above, this court proceed to pass the following:-

ORDER

I.A.No.XII filed by the plaintiff under Order VI Rule 17 R/w Section 151 of CPC is hereby allowed.

Plaintiff is permitted to amend the plaint as sought in the proposed amendment well within 14 days as per the provisions of Order VI Rule 18 of CPC.

No order as to costs.

(Dictated to the Stenographer on Computer directly, typed by him, Order corrected and signed by me, then pronounced by me in the Open Court on this the 17th day of February-2026)

**(Shivaraju H.S.)
Prl. Civil Judge & JMFC.,
Nagamangala.**