

**IN THE COURT OF THE II ADDL. CIVIL JUDGE & JMFC.,
AT PANDAVAPURA**

DATED ON THIS THE 19th DAY OF DECEMBER 2024

:PRESENT:

Smt. Padma M, B.A.L, L.L.B.,
II Addl. Civil Judge & J.M.F.C.,
Pandavapura

ORIGINAL SUIT No.314/2017

Plaintiff : Ravikumar.N.

v/s

Defendants : Y.P.Shankara & Others

I.A.No.III

Applicant : Y.P.Shankara ... defendant No.1
(By Sri.TG, Adv.,)

v/s

Opponent : Ravikumar.N. ---- plaintiff
(By Sri.ALS for D1- Adv.,)

ORDER ON I.A. III FILED UNDER ORDER 6 RULE 17 r/w 151 OF C.P.C

The defendant No.1 has filed IA No.III under Order VI Rule 17 r/w 151 of CPC seeking for implead the additional para No.8(a) after para No.8 that, the schedule land is ancestral property of the defendant and it is fallen to him as his name for nominal khatha and as on that day, the defendant No.1 is the joint family member and mentioned schedule property is ancestral and joint family property, even though the court comes to conclusion of specific performance of contract is

took up between vendee and vendor kindly order for earnest money instead of property in the interest of justice and equity.

2. In support of said I.A., the defendant No.1 has filed a affidavit and stated that, the suit schedule property is the joint family property of the plaintiff. The plaintiff has filed a suit against the defendants for relief of specific performance of contract of the suit schedule property. The defendant No.1 came to know that the lack of information at filing his written statement, he was not intimated the said narrated facts in the application. Then when his brother and sisters insist him to give their legitimate share including this property, then he came to know the said facts are necessary to the suit, hence to add the said para, this amendment application for the above said bonafide reasons not with an intentional one. If the application is not allowed, it will be put to great hardship, inconvenience, it cannot be compensated in terms of money and there is no prejudice will be caused to other side. Hence, prays to allow the I.A..

3. On the other hand, the plaintiff has filed objection and stated that, the said application is not maintainable either in law or on facts. The defendant No.1 in his affidavit not clearly stated which facts are amended in their written statement, he is only seeking for amended the prayer column and facts. The defendant is a educated person. He know all the facts of the suit. If the suit schedule property is the joint family property, at the time of filing of this written statement, itself he is impleaded the additional facts. Now, the defendant No.1 has filed I.A. to implead the additional and created facts, hence this I.A. is not maintainable. Therefore, prays to dismiss the application.

4. On consideration of contentions of both the parties, the following points arise for consideration of this court:

1. **Whether the defendant No.1 has made out grounds to allow the application?**
2. **What order?**

5. The above points are answered as under:

Point No.1 : Affirmative

**Point No.2 : As per final order
for the following:**

REASONS

6. **Point No.1:-** I have gone through the pleadings, application, objection and documents placed before the court, it is disclosed that the plaintiff has filed a suit against the defendants for seeking specific performance of contract. In spite of the suit summons, the defendant No.1 is appeared through his counsel and filed a written statement. Presently, the defendant No.1 has filed said I.A. for seeking implead the additional facts para No.8(a) that the suit schedule properties is the ancestral property of the defendant No.1. Said property khatha has stands in the name of defendant No.1. The defendants are pay the earnest money to the plaintiff instead of the property and some other facts. At the time of filing of the written statement, lack of information of the defendants, they not given additional facts i.e., the suit schedule property is the ancestral property of the plaintiff to the counsel. Hence said facts are not impleaded in the written statement. Said additional facts is very much necessary to prove their defence. If allowed the application, it will not caused to the others.

7. I have gone through the pleadings and documents, the plaintiff has filed a suit against the defendants for specific performance of contract. The defendant No.1 has seeking to implead the additional facts in his written statement. The suit

schedule property is the ancestral property of the defendants, jointly khatha of the suit schedule property stands in the name of defendant No.1. If impleaded the said facts, it will not changed the nature of the suit and also cause of action. moreover proving of the additional facts, it is burden is lies to the defendants. Admittedly, the defendants has filed this application at belate stage. Delay will be compensated with cost. If not allowed the said application, it will be created multiple proceedings. Therefore to avoid the multiplicity of the proceedings and if allowed said fact not change of nature of suit therefore it is just and necessary to allow the application. Hence, the defendant No.1 has made out a ground to allow the application. Accordingly, I have answered **above point No.1 in the Affirmative.**

8. **Point No.2:** In view of the above discussions, I proceed to pass the following

ORDER

**IA No.III is filed by the defendant No.1
U/O VI Rule 17 r/w sec.151 of CPC, is hereby
allowed on cost Rs.500/-.**

**Defendant shall carry out the
amendment and furnish amended written
statement within 15 days without fail.**

(Dictated to the Stenographer, transcribed and computerized by her and then corrected by me and then pronounced on this the 19th day of December 2024)

**(PADMA.M)
II Addl. Civil Judge & JMFC,
Pandavapura.**

Orders pronounced in the open court vide separate orders

ORDER

IA No.III is filed by the defendant No.1 U/O
VI Rule 17 r/w sec.151 of CPC, is hereby allowed
on cost Rs.500/-.

Defendant shall carry out the amendment
and furnish amended written statement within 15
days without fail.

**II ACJ & JMFC,
Pandavapura.**