

ORDER ON I.A.No.8 FILED BY THE PLAINTIFF UNDER
ORDER 6 RULE 17 OF CPC

The plaintiff has filed this application U/o 6 R 17 of CPC seeking permission to amend the plaint, by allowing application.

2. In the affidavit accompanying to the application it is stated that, the plaintiff has filed suit for partition and separate possession. While filing the suit, proposed item No.7 to 9 properties have not been inserted since plaintiff is uneducated and recently, the plaintiff has obtained the said documents. Since, proposed properties are ancestral properties and inserting the said properties are necessary in the present suit. The defendant No.8 has gifted the property in favour of his children and katha also transferred in their names. The said fact, was not known at the time of suit. If, application is allowed no hardship will be caused to defendants and it does not introduce new cause of action and does not change the nature of the suit. Hence, prays to allow the application.

3. On the other hand, the defendant No.8 has filed objection to the said application stating that, the application filed by the plaintiff is not maintainable in law or on facts. It is further submitted that, the

plaintiff has filed the above suit against this defendant No.8 and 12 colluded with other defendants. After filing of written statement the plaintiff has sought present amendment to insert the proposed properties and children of defendant No.8. Now also the plaintiff has not inserted the other properties which are belonging to defendant No.1 and 2. The plaintiff has not specifically known about her ancestral properties. Hence, prays to dismiss the application.

4. Heard and perused the documents which are available on record.

5. I have carefully gone through the application, affidavit, objection and materials available on record. Admittedly the above suit is filed by the plaintiff for the relief of partition and separate possession against defendants and the defendants have also filed their written statement, issues are framed and case is posted for plaintiff evidence. At this stage, the plaintiff has filed this application to amend the plaint as mentioned in the application. The defendant No.8 has contended that, the plaintiff has filed present application for inserting properties and implead the children of defendant No.8. On perusal of plaint it shows that, the plaintiff has filed suit against defendant No.1 to 12 and there is pleading about properties and parties. The present amended will not change the nature of the suit and does not introduce new facts. Since, it is suit for partition and separate possession. Hence, it is required to insert all joint family properties. If the application is allowed by amending the plaint, as shown in the application schedule, no loss or

hardship would be caused to the defendants. On the other hand, it is helpful for just and effective adjudication and also for just determination of the civil rights of the parties to the suit. Otherwise, the multiplicity of proceedings would arise and the plaintiff will be put to irreparable loss and hardship and great injustice, if the application is not allowed. Accordingly, the application filed by the plaintiff deserves to be allowed.

6. In view of above discussion, I proceed to pass the following:

ORDER

I.A.No.8 filed by the plaintiff U/o 6 Rule 17 of CPC is hereby allowed.

The plaintiff is permitted to amend the plaint as prayed in IA.

For

**IInd Addl. Civil Judge & JMFC,
Heggadadevanakote.**