

**IN THE COURT OF I ADDL. SENIOR CIVIL JUDGE AND
JMFC., AT HUNSUR,**

**Presided Over by Smt. Bhagyamma
B.com. L.L.B.,**

Dated, this the 18th day of August 2026

OS.No.81/2019

Plaintiff : Susheela Bai

.Vs.

Defendants : Chandru Bai and others

IA No.11

Applicant : Susheela Bai

-- Plaintiff

.Vs.

Opponents : Chandru Bai and others

-- Defendants

ORDERS ON I.A.NO.XI

After filing amended written statement by defendant-3(c), the learned counsel for plaintiff has filed this IA under order 6 rule 17 R/w. 151 of CPC seeking permission to amend the plaint incorporating a new paragraph as paragraph No.8(a), after paragraph No.15, as stated in the application.

2. The plaintiff state on oath that, after engaging the present advocate and going through the pleadings in the suit, she came to know that the defendants had relied upon the registered Will dated 05.12.2000. Thereafter, she applied for and obtained a copy of the said Will and came to know that her father Shankara Rao had executed the said Will in favour of his sons. The plaintiff proposes to plead that her father had no right to execute the said Will in respect of the suit properties as the properties are ancestral properties. Therefore, the said Will is not binding upon her share in the suit schedule properties.

3. The application is opposed by defendants No.3(a) to 3(c). They have contended that the application is not maintainable, that it has been filed only with an intention to drag on the proceedings. The plaintiff has not shown sufficient cause for filing the application at this stage and that the proposed amendment is not necessary for proper adjudication of the suit. Therefore, sought dismissal of the application with cost.

4. The defendant No.6 has also opposed the application contending that, the suit was instituted in the year 2019 and that the plaintiff has filed the present application at a belated stage. It is further contended that the case had already reached the stage of cross-examination of PW.1 and that the application is filed only with an intention to prolong the proceedings. This

defendant No.6 has further contended that allowing the amendment would cause prejudice and hardship to the defendants and prayed to dismiss the I.A.

5. Heard the learned counsel for the plaintiff and the learned counsel for the contesting defendants.

6. Perused the application, affidavit, objections and the material available on record. Now the point that would arise for consideration is:

Whether the plaintiff has made out sufficient grounds for allowing the amendment sought in I.A?

7. The above point is answered in the **Affirmative**, for the following:

R E A S O N S

8. The suit is one for partition and separate possession of the suit schedule properties. Whereas the defendants contested the suit by taking various defence. The issues in the suit were framed on 23.11.2023, of which one of the issues relates to the registered Will/Partition Deed dated 05.12.2000 relied upon by the defendants. Therefore, the said document is already part of the dispute between the parties. The plaintiff seeks to amend the plaint by specifically stating that the Will dated 05.12.2000 is not binding upon her share. According to her, the suit properties are ancestral properties and her father had no

exclusive right to execute the Will in favour of his sons. Therefore, that proposed amendment is directly connected with the subject matter of the suit. It is true that the application has been filed after commencement of trial. However, the plaintiff has stated that after engaging the present advocate and going through the pleadings, she came to know about the Will and thereafter obtained a copy of the same. She now seeks to place her specific objection regarding the said Will on record. The proposed amendment does not change the nature of the suit. The suit continues to be one for partition and separate possession. The amendment enables the plaintiff to specifically plead her case regarding a document which is already relied upon by the defendants. The contention of the defendants that the amendment will cause prejudice cannot be accepted. If the amendment is allowed, the defendants can be given an opportunity to file their additional written statement and to meet the amended plea in accordance with law. Therefore, any prejudice caused to them can be adequately safeguarded. The purpose of amendment of pleadings is to enable the Court to decide the real dispute between the parties and avoid unnecessary further litigation. In the present case, the proposed amendment is relevant for deciding the rights of the parties in respect of the suit schedule properties. At this stage, this Court is not required to decide whether the Will dated 05.12.2000 is valid or whether it is binding upon the

plaintiff. Those questions have to be decided after considering the pleadings and evidence of both sides. Having regard to the nature of the suit and the proposed amendment, this Court is of the opinion that the amendment is necessary for proper and complete adjudication of the dispute between the parties. The delay, can be compensated by imposing suitable costs. Accordingly, the plaintiff has made out sufficient grounds for allowing the application. Accordingly the above point is answered in the **Affirmative**.

9. In the result, the court proceeds to pass the following:

ORDER

I.A. No.11 filed by the plaintiff under order 6 rule 17 R/w section 151 of CPC is hereby allowed on cost of Rs.1000/-.

To carry out amendment and for Amended plaint as denoted in I.A after para-8 of the plaint.

Ret by; 28.08.2026

(Smt.Bhagyamma)

**I Addl. Sr. Civil Judge & JMFC,
Hunsur.**