

**THE COURT OF THE PRL. SENIOR CIVIL JUDGE AND
J.M.F.C., HUNSUR.**

Present: **Smt. Shirin Javeed Ansari**, B.A., L.L.B.,(Hon's) LL.M
Prl. Senior Civil Judge & J.M.F.C.,
Hunsur.

Dated, this the 1st day of October 2022

O.S.NO.106/2020

Plaintiff : Smt. Gowramani

V/s

Defendant : Sri. Basavarajappa & others

PARTIES IN IA. No. IV

Applicant/plaintiff : Smt. Gowramani

V/s

Opponent/defendant : Sri. Basavarajappa & others

ORDERS ON IA-IV FILED U/O 6 RULE 17 r/w/s 151 OF CPC

This is an application filed by the applicant/plaintiff U/O
6 Rule 17 R/w Section 151 of CPC seeking amendment of the
plaint in the interest of justice and equity.

2. This is the suit filed by the plaintiff seeking the relief of partition and separate possession. The present application is filed at the stage of commencement of plaintiff's evidence.

3. The proposed amendment sought by the applicant/plaintiff is as follows;

*(1) In page No. 9, after the schedule item no. 14 to include the schedule item No. 15:-
The Land bearing Sy.No. 4/9-measuring 2-00 acres, situated at Hanagodu Village, Hanagodu Hobli, Hunsur Taluk, Mysuru District, bounded on :*

*East by : Lands of Chamashetty
and sons
West by : Lands of Shivalingappa,
North by : Kunteri Kere,
South by : Property belongs to
Sudhamani*

4. The present application is supported by the affidavit of the applicant/plaintiff wherein, it is stated that the present suit is filed by the plaintiff against the defendant seeking the relief of partition and separate possession in respect of the

suit schedule properties. It is averred by the plaintiff that, at the time of filing the suit one of the joint family property was left out and the said matter came to the knowledge of the applicant recently. After coming to know the same the applicant has filed the present application before this court. Therefore, the applicant/plaintiff has filed the application for the proposed amendment. The said proposed amendment will not change the nature of the suit and it will not introduce any new cause of action and it will not take away any right accrued to the defendant. If the application is not allowed, the applicant/plaintiff will be put to loss and hardship which cannot be compensated in terms of money. Hence, applicant/plaintiff prayed to allow the present application in the interest of the equity and justice.

5. The defendant No. 2 have filed objections to the present application on the ground that the application is neither maintainable in the eyes of law nor on the basis of facts. The application is filed at the belated stage only in order to drag the

proceedings and harass the defendants. Hence, defendant No. 2 prayed to dismiss the application.

6. I have heard the arguments of both the sides and perused the materials available on record.

7. The following points arise for my consideration.

1. Whether the applicant/plaintiff has made out grounds to allow the instant application?

2. What order?

8. Findings of this court on the above points are:

Point No.1: In the Affirmative

Point No.2: as per final order for the following:

REASON

9. **Point No.1**: On careful and meticulous perusal of the materials available on record it is found that, the present suit is filed by the plaintiff against the defendant seeking the relief of partition and separate possession. At the time of filing the suit, the plaintiff has left out one of the joint family property

from impleading in the present suit. The applicant came to know about the same at the later stage. Hence, immediately filed the application. That now the matter is posted for plaintiff's evidence, at this stage the plaintiff has filed the present application seeking amendment in the plaint that he is intending to insert one of the family property in the schedule of the plaint. The trial is yet to begin in the present case and the applicant/plaintiff has stated in the application that inspite of due diligence that he was not able to insert the said aspect of the matter. The amendment sought for by the applicant will not change the nature of the suit and it will not introduce any new cause of action as the nature of the suit remains intact. Since the trial is yet to begin, there is no question of taking away any right accrued in favour of the defendant. Therefore, at this stage the court is of the opinion that, the application deserves to be allowed in order to avoid the multiplicity of the proceedings and in order to arrive at right conclusion in the matter. Hence, in view of this, the court is of the opinion that the application filed by the applicant/plaintiff deserves to be allowed. Hence, in view of this, I answer the point No.1 in Affirmative.

10. **Point No.2** :-In view of the reasons assigned above, I proceed to pass the following;

ORDER

IA. No. IV filed by the applicant/plaintiff U/O 6 Rule 17 R/w Sec. 151 of CPC is hereby allowed on cost of Rs.500/-.

The said cost is directed to be deposited to TLSA, Hunsur.

The applicant/plaintiff is permitted to carry out the amendment in the plaint and furnish the amended plaint within 15 days from the date of this order.

Prl. Senior Civil Judge & JMFC
Hunsur