

ORDER ON IA No.XI

The 1st plaintiff has filed I.A.No.XI under Order 6 Rule 17 R/w Section 151 of Code of Civil Procedure and seeking permission to amend the plaint by inserting one more para in the pleadings.

2. In the affidavit which enclosed to I.A.No.XI, wherein he has stated that the plaintiffs have filed the suit against the defendants for the relief of declaration and permanent injunction with respect to the suit schedule properties. During pendency of the suit, the defendant No.12 to 15 have entered into registered partition deed dated 08.06.2022 and the defendant No.15 has executed sale deed in favour of defendant No.16 on 07.10.2023 during pendency of the suit. Hence, the proposed amendment of the subsequent events incorporated in the plaint. Therefore, the proposed amendment is necessary to the adjudicate the matter. Accordingly, prays for allow the application.

3. On the other hand, the defendants have not filed objection to the application.

4. On the basis of the pleadings, the following points arise for my consideration;

1. Whether the plaintiff No.1 has made out ground that, the proposed amendment to be necessary for the purpose of determining the real question in controversy between the parties?
2. What order?

5. Heard counsel appearing for the plaintiff. Perused the entire records and documents available and my findings on the above points are answered as follows:

Point No.1 : In the Affirmative

Point No.2 : As per final order

for the following;

REASONS

6. **Point No.1:-** The plaintiffs have filed a suit against the defendants for the relief of declaration and permanent injunction. On the other hand, the

defendants have appeared before this court and filed written statement by denying the case of the plaintiffs. When the case posted for plaintiff's evidence the present application was filed.

7. Now the question arises before this court is, whether the amendment is necessary for the determination of the real question in controversy between the parties. Before discussion of the above point, this court glance the provision under Order 6 Rule 17 of Code of Civil Procedure. Hence, it is relevant to mention under **Order 6 Rule 17 of Code of Civil Procedure;**

8. Rule 17 provides for amendment of pleading it reads under;

The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties.

Provided that no application for amendment shall be allowed after the trial has commenced, unless the court comes to

the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.”

9. The said provision makes it clear that, at any stage of the pleadings allow the either party to alter or amend his pleadings. If the proposed amendment to be necessary for the purpose of determining the real question in controversy between the parties.

10. On perusal of the record, the plaintiff evidence not yet commenced and the proposed amendment is subsequent events. Therefore, the proposed amendment is necessary to the adjudicate the matter effectively.

11. Further, the plaintiffs cannot withdrawn any admissions. It is settled law that the grant of application for amendment shall be subject to certain conditions namely, 1) when the nature of it is changed by permitting amendment 2) when the amendment would result in introducing new cause of action and

intends to prejudice the other party and when allowing amendment applications defeats the law of limitation. The proposed amendment does not change the nature of the suit or cause of action and there is no defeats of the limitation in the amendment application.

12. If the proposed amendment is allowed, the defendants have got right to make file additional written statement and to adduce evidence to disprove the case of the plaintiffs. To avoid the multiplicity of proceedings, the proposed amendment is allowed. **Hence, this court answered Point No.1 is in the Affirmative.**

13. **Point No.2:-** In view of the discussions and conclusion arrived at Point No.1, this court proceed to pass the following;

::ORDER::

❖ The I.A.No.XI filed by the plaintiff No.1 under Order 6 Rule 17 of C.P.C. is hereby ***allowed.***

❖ The plaintiff is permitted to carryout the amendment and to furnish amended plaint within 14 days from the date of this order.

For amendment of plaint.

Call on: 09.04.2025.

**Senior Civil Judge & JMFC.,
K.R.Nagar.**