

O.S.26/2014

ORDER ON I.A. DATED 26.09.2022

The plaintiff No.1 has filed the application under Order VI Rule 17 r/w Section 151 C.P.C. to amend the plaint as detailed in the application.

2. The present application has been filed when the case has been posted for cross-examination of D.W.3.

3. The defendant Nos.1 to 3 filed statement of objections through their counsel. Defendants 4 and 5 filed statement of objections.

4. Heard.

5. The suit is for the relief of partition and other consequential relief. Plaintiff No.1 through the proposed amendment wishes to insert a paragraph in the plaint regarding entitlement of the plaintiffs over mesne profits from the suit schedule properties and a relief claiming the mesne profits.

6. According to the defendants 1 to 3, the relief sought can be claimed even in the final decree proceedings and the application is filed to protract the proceedings.

7. According to the defendants 4 and 5 the evidence has already reached finality, therefore after the commencement of evidence no amendment can be allowed.

8. As stated above, the application was filed when the case was posted for cross-examination of D.W.3. Apart from that, the suit is of the year 2014. However, according to the plaintiff No.1, she could not present the proposed amendment earlier and the same is not intentional.

9. Be that as it may. The proposed amendment will not change nature of the suit and cause of action for the suit. If the proposed amendment is allowed, no one will suffer hardship as the case is not yet reached finality. Hence, the following:

ORDER

I.A. filed under Order VI Rule 17 r/w Section 151 of C.P.C. by the plaintiff No.1 is allowed with costs of Rs.1,000/-.

Plaintiff No.1 is permitted to carry out amendment. For amendment of plaint and to furnish amended plaint by 14.11.2022.

Senior Civil Judge, Nanjangud.
07.11.2022.