

IN THE COURT OF ADDL. SENIOR CIVIL JUDGE,
RAMANAGARA

:PRESENT:

Smt. K.Srividya, B.A.L., LL.M.,
Addl. Senior Civil Judge,
Ramanagara.

O.S.478/2014

DATED : THIS THE 29th DAY OF MAY 2017

Plaintiffs : Puttasiddaiah and others.

- V/s -

Defendants : G.Gurujogaiah and others.

* * * *

Orders on I.A. dated 27.10.2016

I.A. is filed by the plaintiffs under Order 6 Rule 17 r/w Sec.151 of CPC seeking permission to amend the plaint. It is accompanied by affidavit. Objection is filed to the said application.

2. In the affidavit accompanying the application, the plaintiffs state that, they have filed a suit against the defendants for partition and separate possession. Further state that, by oversight they had not included house property in the plaint schedule. Hence, by way of amendment they intend to insert the house property in the plaint schedule. The proposed amendment does not change the nature of suit nor cause of action. Hence, prays for allowing the application.

3. In the objection filed by defendants No.1 to 6 and 8 & 9, apart from usual denial of the averments mentioned in the affidavit accompanying the application state that,

already there was a oral partition with regard to the house property. Hence, the proposed amendment is not necessary for effective adjudication of the suit. Further state that, the intention of the plaintiffs are to drag on the suit. Hence, prays for rejection of the application with cost.

4. The following points arise for my determination.

(1) *Whether the proposed amendment is necessary to determine the real controversy between the parties?*

(2) *What order ?*

5. Heard the Counsels.

6. My findings on the above points are as follows.

Point No.1 : In the Affirmative

*Point No.2 : As per final order
for the following*

REASONS

7. POINT No.1 : Heard the counsels and perused the records. The plaintiffs counsel argued that, whether there was oral partition or not is a matter that has to be determined during the course of trial. Further state, the

proposed amendment does not change the nature of suit nor cause of action. Hence, prays for allowing the application.

8. The counsel for the defendants argued that, there was already oral partition with regard to house property. Hence, the application has to be rejected.

9. Perused the records. The suit is filed for partition and separate possession. Under the proposed amendment the plaintiffs intend to insert the house property under the plaint schedule. Whether there was oral partition with regard to house property or not is a matter that has to be determined during the course of trial. Hence, for effective adjudication of the controversy involved in the suit this Court views that, the proposed amendment has to be allowed. With this observation, **Point No.1 is answered in the Affirmative.**

10. Point No.2 : Based on findings in Point No.1, proceed to pass the following :

ORDER

I.A. dated 27.10.2016 filed by the plaintiffs under Order 6 Rule 17 r/w Sec.151 of CPC is hereby allowed on cost of Rs.200/-.

The plaintiffs are directed to carry out amendment of plaint and file amended plaint by next date without fail.

The parties are directed to co-operate with the Court for speedy disposal of the suit.

(K. SRIVIDYA)
Addl. Senior Civil Judge,
Ramanagara.