

**IN THE COURT OF THE PRL. SENIOR CIVIL JUDGE AND  
CJM AT RAMANAGARAM**

**Dated : This the 23<sup>rd</sup> day of September 2019**

**Present**

**Sri. N.S.Kulkarni.,**  
B.Com., LL.B Spl.,  
Prl. Senior Civil Judge & CJM.,  
Ramanagaram.

**O.S 393/2009**

**Plaintiffs:-** Smt. Puttarevamma and others

**(By Sri. L.N.C., Advocate)**

**V/s**

**Defendants:-** Sri. Bhadrappa and others

**(D.1, 3, 4 to 14, 16 to 18 Sri. K.M., Advocate)**

**(D.2 Sri. L.C., Advocate)**

**(Defendants 14 and 15 - Exparte)**

\* \* \* \* \*

**Orders on I.A dated 22.07.2019**

**filed by the plaintiffs**

**U/o 6 Rule 17 r/w Section 151 of CPC**

The plaintiffs have moved this application seeking permission of the court to amend the plaint to the effect made mention off in the body of application.

2. In the affidavit appended to the application the 1<sup>st</sup> plaintiff deposed that, on the last date of hearing the above suit is posted for the evidence of the plaintiff and she has filed the examination-in-chief along with documents and this court was pleased to posted the said matter for cross examination of the defendants. Further, the 2<sup>nd</sup> defendant – her brother enjoying all the suit schedule properties without giving any shares to her uncles along with her and her sisters and her uncle filed a suit against her and her brother and the same is pending before the Additional Senior Division, Ramanagara in O.S 64/2016 and she came to know that, her uncle filed an application before Senior Division for amendment of the plaint, wherein, she came to know that, the 2<sup>nd</sup> defendant purchased some properties near Magadi Taluk and also near Talakuppe village out of the Joint Family funds. Hence, to amend the plaint. Further submit that, she has illiterate and taking advantage his brother without giving any share in the said properties. Hence, it is prayed to allow the application or otherwise the plaintiffs will be put to great loss and hardship.

3. The defendant No.2 filed objection to the application stating that, the said case is now posted for evidence and cross of PW.1 and plaintiff has lead her evidence in chief and now the plaintiff has filed this application is not at all maintainable. The properties shown in the proposed amendment now is not belongs to neither the plaintiff nor the defendant. Now, it is the Government land and it has been acquired by KIADB in the year 2009, the compensation were also been taken by the defendants and they have spent all the money and it is false that, the defendants have deposited the amount in the bank. The plaintiffs have not produced any documents to prove their contention. Further, the plaintiff so many similar applications in previous occasions and now have came with this application to drag on the proceedings and harass the defendants. The acquire proceedings started in the year 2009 after lapse of 10 years the plaintiff trying to amend the plaint now but neither the plaintiffs nor the defendants have rights over those properties today. Moreover, the plaintiffs have already relinquished their rights through a

registered deed in suit schedule properties but plaintiffs to harass the defendants have come with this case, which is not maintainable and liable to be dismissed. The suit of the year 2009, which is a 10 years pending case, the plaintiffs have in negligent manner have gone on filing such kind of applications only to drag on the proceedings and they are liable to be rejected with heavy costs. Hence, it is prayed to dismiss the application with costs or otherwise the defendant No.2 will be put to hardship.

4. Now, the following point emerge for consideration:-

*Whether the proposed amendment is permissible ?*

5. Having heard the arguments of both the counsels, the court scrutinized the application in the backdrop of pleadings of the parties and the objection statement raised against the same. Now, finding of the Court on the point is in the "Negative" for the following:-

## **REASONS**

6. The proposed amendment is to insert after Paragraph No.4 of the plaint and it reads thus:-

*4(a) The plaintiff submits that, during the life time of the father of the plaintiffs and other members of the family sold an extent of 4 acres 16 guntas of land in Sy.No.88/2 and another land in Sy.No.90/1 measuring 39.08 guntas and 20 guntas situated at Shanumangala village, Bidadi Hobli, Ramanagara Talu and District and defendants 1 and 2 promised the plaintiff to get their share in the said properties and taken them to the office of Sub-registrar, Ramanagara and got the alleged sale deed in favour of the 3<sup>rd</sup> defendant and the 2<sup>nd</sup> defendant promised the plaintiffs to obtain the partition deed of the above schedule properties. On the very next day of the execution of the sale deed and the plaintiffs believing the words of the 2<sup>nd</sup> defendant came back to their village and when they contacted the defendants 1 and 2 but the defendants 1 and 2 threaten the plaintiffs. They came to know that, the deed which was taken place before the Sub-registrar office only the sale deed to the 3<sup>rd</sup> defendant and not the partition deed. Further the plaintiff states that, the plaintiffs came to know that the 3<sup>rd</sup> defendant paid a sum of Rs.6,48,37,500/- to the members of the family and the 1<sup>st</sup> defendant, who was the kartha of the Joint Family distributed a sum of Rs.1,29,67,500/- to the defendants 4 to 7*

and defendants 1 and 2 deposited the entire amount in their savings bank account.

4(b) The plaintiffs further submit that, all the Revenue records pertaining to the Joint Family stands in the name of the father of the plaintiffs and the land bearing Sy.No.155/2, measuring 3 acre 25 guntas which was acquired by KIADB and the compensation of Rs.1,25,00,000/- out of which the Joint Family members equally divided and the 1<sup>st</sup> plaintiff received a sum of Rs.29,00,000/- and the same was deposited in his account and now the 1<sup>st</sup> defendant died leaving behind the plaintiffs and 2<sup>nd</sup> defendant. On 13.11.2009, the defendants 1 and 2 got the release deed in their favour when they questioned about the illegal acts the 1<sup>st</sup> and 2<sup>nd</sup> defendants threaten the plaintiffs with dire consequences.

4(c) The plaintiffs further submits that, out of the compensation amount from the KIADB, the 2<sup>nd</sup> defendant during the life time of the 1<sup>st</sup> defendant constructed RCC house in Sy.No.55, measuring East to West 60 feet and North to South 55 feet and receiving the rents from six houses and also constructed a commercial complex and RCC house in the said land and also constructed commercial complex and RCC house in Sy.No.55 and getting Rs.3,00,000/- per month as a rent derived out of the Joint Family properties and the 2<sup>nd</sup> defendant purchased another land bearing Sy.No.39/3, measuring 1 acre 10

*guntas situated at Kodihalli village, Kuduru Hobli, Magadi Taluk, Ramanagra District in the name of his wife and also purchased 24 guntas of land in the year 2015 in Talakuppe village, Bidadi Hobli, Ramanagara Taluk and all the above said properties are joint income derived out of the Joint Family properties and the plaintiff are the class-1 legal heir entitle for the same.*

7. Wherefore, under the above circumstances, the plaintiffs believed the defendant No.2 that, the plaintiffs entered the Sub-register office and got the alleged sale deed in favour of the 3<sup>rd</sup> defendant and the case is filed in the year 2009. The relief claimed by the plaintiff for amendment is more than three years and also the plaintiff was in knowledge that, the defendant has got the money. So now she cannot filed this application. The defendant No.2 stating the objection that, the plaintiffs have already relinquished their rights through a registered deed in suit schedule properties. But, the plaintiffs contention is that, only to drag on the proceedings and harass the defendants, the plaintiffs have filed similar applications. The case is old one also. The above case is posted for evidence of cross of PW.1. More importantly, the plaintiffs have not produced the

documents. Hence, the proposed amendment is not permissible as it changes the nature of the suit. Hence, I am inclined to hold the Point is in the “Negative. In the result, I proceed to pass the following:-

**ORDER**

I.A dated 22.07.2019 filed by the plaintiffs U/o 6 Rule 17 of CPC is dismissed.

No order as to costs.

*(Dictated to the Stenographer directly on computer, corrected by me and then pronounced in the open Court on this the 23<sup>rd</sup> day of September 2019)*

**Prl., Senior Civil Judge & CJM,  
Ramanagara.**