

Orders on IA dated:08-08-2018

IA dated:08-08-2018 application is filed by the plaintiff U/o 6 Rule 17 R/w Sec.151 of CPC seeking permission for amendment of the plaint. It is accompanied by the affidavit, objection is filed by the defendants.

2. In the affidavit accompanying the application the plaintiff state that, she had filed suit for partition and separate possession of suit schedule properties. Further state, recently she noticed some of the joint family properties are not inserted in the plaint. Hence, intend to insert item No.6 to 11 in the plaint schedule. Further state, the proposed amendment does not change the nature of the suit nor cause of action. Further state, proposed amendment is necessary for effective adjudication of the controversy involved in the suit. Hence, prays for allowing the application.

3. In the objection apart from usual denial of the averments mentioned in the affidavit accompanying the application the defendants No.3 to 3 contend that, there is no existence of joint family. Further state, intention of the plaintiff is to protract the proceeding. Hence, prays for dismissal of the application with cost.

4. The following points arise for my determination.

1. Whether the proposed amendment is necessary for effective adjudication of the controversy involved in the suit?
2. What Order?
5. Heard the counsels.
6. The findings on the above points are as hereunder:

Point No.1: In the Affirmative

Point No.2: As per the final order

REASONS

7. **Point No.1:** Heard the counsels and perused the records. The suit is filed for partition and separate possession. Whether there was existence of joint family properties or not is a matter that has to be determined in full fledged trial.

8. The proposed amendment sought by the plaintiff is with reference inserting additional schedules in the plaint. Being a Court of first instance, this court views that, the application could be allowed. Further, the proposed amendment does not change the nature of suit nor cause of action. However, for belatedly filing the application this Court views that, the application deserves to be allowed on heavy cost. With this observation, **Point No.1 is answered in the Affirmative.**

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

ORDER

IA dated:08-08-2018 filed by the plaintiff
U/o 6 Rule 17 R/w Sec.151 of CPC., is
hereby allowed on cost of Rs.1000/-.

For amendment of plaint and amended
plaint.

By:

**Addl. Senior Civil Judge,
Ramanagara.**