



**IN THE COURT OF THE SENIOR CIVIL JUDGE &
J.M.F.C., AT CHANNAPATNA**

BEFORE

**SMT.SHUBHA, B.A.L., L.L.B.,
Senior Civil Judge & JMFC.,
Channapatna.**

Dated this the 20th day of September 2023

O.S.No.23/2019

PLAINTIFFS:

Sri.M.P.Ramesha and Others.

(Rep. by Sri.K.V.Y., Advocate)

V/S

DEFENDANTS:

Sri.T.P.Puttasiddegowda and Others.

**(Defendant Nos.1 and 2 are
represented by Sri.M.K.N.,
Advocate and Defendant
Nos.3 and 4 are represented
by Sri.N.G., Advocate)**



IN I.A.NO.VI

APPLICANTS/DEFENDANTS:

Sri.T.P.Puttasiddegowda and Others

V/S

OPPONENTS/PLAINTIFFS:

Sri.M.P.Ramesha and Others.

ORDER ON I.A.NO.VI

The above application i.e., I.A.No.VI is filed on behalf of the Defendants under Order VI Rule 17 read with Section 151 of Civil Procedure Code praying this court to permit them to amend the written statement.

2. By way of amendment the Defendants wants to add para No.8a, 8b and 8c.



3. The above application is supported with the affidavit of the Defendant No.1 for and on behalf of the defendants, wherein he has submitted that the Plaintiff has filed this suit for declaration, partition and separate possession against the defendants. That due to oversight and inadvertence, certain pleadings in the written statement were not pleaded. That the same is bonafide and not intentional. That the trial in the above suit has not yet begun and hence, the proposed amendment sought for will not change the nature and character of their defense. That they have a good case on merits and the proposed amendment is relevant, just and necessary to plead their defense properly in the written statement. That if the accompanying application is not allowed, great injustice, hardship and prejudice will be caused to them. That on the other hand, if the proposed amendment sought for, is allowed, it will help the court to determine the real questions between parties for proper adjudication of the suit. Hence, defendants have prayed to allow this application so that they can amend the written statement.



4. On the other hand the Plaintiff has filed objections to the above application and contended that application filed by the Defendants is not maintainable in law. That the averments made in the above application is already pleaded by the defendants at para No.20 of their written statement. Therefore, the above application deserves to be dismissed.

5. The Plaintiffs have further submitted that themselves and Defendants are relatives. That as per the joint Sale Deed dated 14.11.1957, their propositus M.Channappa and the propositus of the family of Defendants by name Siddegowda @ Puttaswamy Gowda have jointly purchased the suit schedule property. However, the Defendants are now not ready to give the half portion of the property to them. They have created documents in their favour. Hence, the Plaintiffs have prayed to dismiss the application.



6. I have heard the arguments of learned advocate for the Defendants/Applicants and Opponents/Plaintiffs on I.A.No.VI. Now the points that arise for my consideration are:

POINTS

- 1 Whether the proposed amendment is just and necessary for proper adjudication of this suit ?
- 2 What order ?

7. My findings to the above points are as follows:-

Point No.1 : In the Affirmative

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

REASONS

8. **POINT NO.1:-** The above application i.e., I.A.No.VI is filed on behalf of the Defendants under Order VI Rule 17 read with Section 151 of CPC praying this court to permit them to amend the written statement.



9. By way of amendment the Defendants wants to add para No.8a, 8b and 8c to the Written Statement and to explain with regard to the possession of the suit schedule property. Even though the Defendants have pleaded about the proceedings of Land Tribunal at para No.20 of their written statement, now by way of amendment the Defendants have elaborated the said facts. The Defendants can take inconsistent stands and defenses provided that they should prove the same. Therefore, in order to decide the entire claim and defense of the Defendants, in respect of suit schedule property, they must be permitted to amend their written statement as prayed in the above application. The Plaintiff can file rejoinder with regard to the said amended written statement and cross-examine the Defendants with regard to the said aspect. Therefore, no hardship will be caused to the Plaintiff if the above application is allowed. Hence, I have answered the **Point No.1 in the Affirmative.**



10. **POINT NO.2**:- In view of my findings given on Point No.1 for the reasons discussed herein above paragraphs, I proceed to pass the following:

ORDER

The I.A.No.VI filed on behalf of the Defendants under under Order VI Rule 17 read with Section 151 of CPC is hereby allowed.

The Defendants are permitted to carry out necessary amendment in the Written Statement.

(Dictated to the Typist Copyist on computer, then corrected & initialed and pronounced by me in the open court on this the **20th day of September 2023**)

(SHUBHA)
**Senior Civil Judge & JMFC.,
Channapatna.**