



**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 17th day of November 2023

O.S.No.121/2020

PLAINTIFF:

Smt.Venkatamma

(Rep. by Sri.S.B.D., Advocate)

V/S

DEFENDANTS:

Sri.Thimmegowda and Others

**(Defendant Nos.1 to 5 are
represented by Sri.K.S.R. /
G.S.K., Advocate)**

IN I.A.NO.V

APPLICANT/PLAINTIFF:

Smt.Venkatamma



V/S

OPPONENTS/DEFENDANTS:

Sri.Thimmegowda and Others

ORDER ON I.A.NO.V

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

2. By way of amendment the plaintiff wants to add the schedule No.26, 27 and 28 in the plaint.

3. The above application is supported with the affidavit of the plaintiff, wherein she has submitted that the documents relating to the suit schedule items 26 to 28 has been collected now only and it is not intentional but bonafide one. That it is just and necessary to add schedule properties in suit schedule property of the plaint. That she has legitimate share in the schedule items. That she has got a good case on merits. That in order to prove her case, it is just and necessary to amend the schedule items of her case,



which are very much essential for the effective adjudication of the case. That the balance of convenience lies in her favour. That no harm or prejudice will be caused to the defendants if the application is allowed. Hence, prayed to allow the application.

4. On the other hand the Defendants have filed objections to the above application and contended that the application filed by the Plaintiff is devoid of merits and is not maintainable either in law or on facts. That the application is highly contrary, prejudicial and misconceived. That the application so filed at this stage to amend the plaint, is only to cause hardship to the Defendant and there is no absolute merits.

5. They have further submitted that the proposed Item No.27, the land property bearing Sy.No.116/3 measuring 8 ½ guntas of Mangalavarapete, is the self acquired property of the Defendant No.3, who had purchased the same from its earlier vendors Smt.Siddhalingamma under Registered Sale Deed dated 12.03.1998. That the proposed Item No.27 has been sold to Smt.Vathsala to an extent of 1 ½ guntas



by Registered Sale Deed dated 03.09.2021, to Sri.Puttaswamy to an extent of 2 guntas by Registered Sale Deed dated 27.08.2021, to Smt.Rashmi S. to an extent of 2 guntas by Registered Sale Deed dated 27.08.2021. That the Item No.28, land bearing Sy.No.26/5 and 26/1 of Dabanagunda Village is the self acquired property of Defendant No.4, who had purchased the same from its earlier vendors Smt.Shivamma and others under Registered Sale Deed dated 22.07.2016. That the Defendant No.4 being an entrepreneur had purchased the property out of her floriculture business. That the said property nowhere belong to the joint family properties to include in the partition suit as claimed by the Plaintiff. Hence prayed to dismiss the application.

6. I have heard the arguments of learned advocates for both the parties on I.A. No.V. 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 Negative

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

REASONS

8. **POINT NO.1:-** The above application i.e., I.A.No.V is filed on behalf of the Plaintiff under Order VI Rule 17 read with Section 151 of Civil Procedure Code praying this court to permit her to amend the plaint. By way of amendment the plaintiff wants to add the schedule No.26, 27 and 28 in the plaint.

9. The Defendants have contended that the Defendant No.3 among them, purchased the Item No.27 property from Siddalingamma as per Sale Deed dated 12.03.1998 and sold 1 ½ guntas in favour of Smt.Vathsala as per Sale Deed dated 30.08.2021 and also sold 2 guntas each in favour of Sri.Puttaswamy and Smt.Rashmi S. respectively as per the Sale Deeds dated 27.08.2021. They have further contended that the Defendant No.4 being a entrepreneur, purchased Item No.28 as per the Sale Deed dated 22.07.2016. Hence, they have contended that those properties



never belongs to the joint family. Hence, prayed to dismiss the I.A.No.V.

10. The Plaintiff has filed this suit seeking the relief of partition in respect of the suit schedule properties. As far as relationship between the parties, there is no dispute. The contention of the Plaintiff is that the above said Item No.26 to 28 are also joint family properties. However, the contention of the Defendants is that Item No.27 and 28 are the self acquired properties of Defendant No.3 and 4. The said contentions taken by the Defendants have to be proved by giving a corroborative evidence. However, at this stage, for the proper adjudication of the dispute between the Plaintiff and Defendants, those properties also to be included in the schedule and the purchasers also to be made as parties to the suit. If the Plaintiff is not permitted to add those properties in this suit, she may have to file another suit in future in respect of those properties. Therefore, all the dispute between the Plaintiff and Defendants have to be brought in this single suit in order to avoid multiplicity of proceedings. The defence if any raised by the Defendants will be



decided by this court after full pledged evidence. Therefore, at this stage, there are sufficient grounds to allow the above application. Hence, I have answered the **Point No.1 in the Affirmative.**

11. **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.V filed on behalf of the Plaintiff under Order VI Rule 17 read with Section 151 of Civil Procedure Code is hereby allowed.

The Plaintiff is permitted to carry out the amendment in the plaint.

(Dictated to the Typist Copyist on computer, then corrected & initialed and pronounced by me in the open court on this the **17th day of November 2023**)

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