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**THE COURT OF PRL CIVIL JUDGE AND JMFC,
KANAKAPURA**

Present:

**Sri. Suresh Annappa Savadi, B.A., LLB., (Spl.)
Civil Judge & JMFC, Kanakapura
O.S.No.1/2018**

Dated this the 12th day of July 2022

PLAINTIFFS:

1. Sri. Narayanaswamy

-Versus-

DEFENDANTS:

1. Smt. Vanajakshamma and another

PARTIES ON I.A.III

APPLICANTS:

defendants

1. Smt. Vanajakshamma and another

(By Sri. K.V.M., Adv.,)

-Versus-

OPPONENTS:

plaintiff

1. Sri. Narayanaswamy

(By Sri. M.V.S., Adv.,)

ORDERS ON I.A.No.III

The defendants filed an application U/O 6 rule 17 r/w section 151 of CPC seeking for amendment of the written statement by inserting para 18(a) in the written statement.

2. In the affidavit contended that the father of the plaintiff namely Ramaiah and grandfather of defendant No.2 Venkatappa are own brothers and they are the sons of Thirumalanaika. The plaintiff has filed this suit for permanent injunction against the defendants with respect of suit schedule property. After this suit the plaintiff has been filed another suit for the relief of partition and separate possession against the defendant No.1 in O.S.No.424/2019 before the Senior Civil Judge, Kanakapura. In that suit the plaintiff stating that the plaintiff and defendants are the joint family members and they are in joint possession and there is no partition held between him and defendants. The plaintiff taking undue advantage of the impugned khata, filed the above suit for permanent injunction against them stating that he acquired the suit property under a family partition vide panchayath vibhaga

pathra dated 29.08.2013. The plaintiff has taken the double stand in the present suit and also in the partition suit bearing O.S.No.424/2019. Therefore, it is just and necessary to insert the same in the written statement and the proposed amendment will not change the nature of suit. Hence prays to allow the application.

3. On the other hand the plaintiff filed the objections and contended that after service of summons the defendants appeared through their counsel and filed written statement and issues were framed on 18.06.2019 and when the case is posted for cross examination of PW.1, instead of cross examination, filed this frivolous application to drag the proceedings and also contended that the amendment application is false and baseless. The plaintiff admitted that he has filed the suit for partition and separate possession in respect of Sy.No.22/P5, measuring 10 acres and present suit property already partitioned between them as per the Panchayath Vibhaga Pathra dated 29.08.2013 and as per the said vibhaga pathra the khata stands in the name of Kondamma who is the mother of plaintiff. The defendants

sought the relief in the above application for to amend the written statement to add the certain alleged averments were not required to the above suit to decide the same is accordance with law, only to dragon the proceedings filed this application. With these set of contentions prays to reject the application.

4. Heard the both sides.

5. After going through the entire materials available on record, the plaintiff filed this suit for bare injunction against the defendants in respect of the property bearing Khaneshumari No.214/360/400/1, measuring East-West:10.67 meters and North-South:21.34 Meters situated at Harohalli village of Kanakapura Taluk. The defendant contended that the plaintiff filed this suit for bare injunction and after filing of this suit the another suit was filed by the present plaintiff for partition and separate possession against this defendant and taken contention that they are the joint family members and they are in joint possession. But for that the plaintiff contended that in respect of land bearing

Sy.No.22/P5(Old Sy.No.22) no partition had taken place.

6. After going through the pleadings of the plaint, the present suit is filed for bare injunction in respect of Khaneshumari.No. 214/360/400/1, measuring East-West:10.67 meters and North-South:21.34 Meters this property is no way concern to the land bearing Sy.No.22/P5 (Old Sy.No.22). The proposed amendment is in respect of the landed property and present suit for bare injunction in respect of the property bearing Khaneshumari number and did not placed any materials to show that the present suit property is the subject matter of the suit in O.S.No.424/2019. The defendant has taken contention that the plaintiff has taken double stand but that will not help the present case on hand because the schedule properties of both suits are entirely different. Hence, under such circumstances, this court is of the opinion that the defendant has not made out sufficient ground to allow the application. Hence, this court proceed to pass the following;

ORDER

The I.A.No.III filed by the
defendants under Order 6 rule 17
r/w Sec.151 of CPC hereby rejected.

(Dictated to the Steno through electronic media, transcribed by
her, corrected and then pronounced by me in the open Court on
this the 12th day of July 2022)

**Prl. Civil Judge and J.M.F.C.,
Kanakapura.**