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IN THE COURT OF PRL CIVIL JUDGE AND JMFC,
KANAKAPURA

Present:

Sri. Suresh Annappa Savadi, B.A., LLB., (Spl.)
Prl. Civil Judge & JMFC, Kanakapura

O.S.No.01/2018

Dated this the 18th day of July 2023

PLAINTIFF:

Sri.Narayanaswamy

-Versus-

DEFENDANTS:

Smt. Vanajakshamma and Another

PARTIES ON I.A.IV

APPLICANT/S:

Defendants

Smt. Vanajakshamma and Another

-Versus-

OPPONENT/S:

Plaintiff/s

Sri.Narayanaswamy

ORDERS ON I.A.No.IV

The defendant filed this application U/O VI rule 17 R/w Sec.151 of CPC seeking to amend the written statement by inserting para No.20.

2. In the affidavit the defendant contended that, during 2020-21 the katha of the suit schedule property measuring East to West 25 feet, North to South 47 feet has been made out in the name of the wife of the elder son of propositious Sri.Venkatappa namely Smt. K.V.Jayamma W/o Sri.H.V. Ramakrishnappa as per MR.No.155/2020-21 and the phodi number of said property has also been changed as 360/400/A. Subsequently the defendant No.1 and said Smt.K.V.Jayamma partitioned the suit schedule property under a registered partition deed dated 30.06.2021 and in the said partition deed the suit schedule property has fallen to the share of this defendant. The defendants further contended that he has obtained a license from PDO of Harohalli for construction of house in the suit schedule vacant site and also obtained the approval plan from the concerned Yojana Pradhikara, Kanakapura on 09.01.2023. The defendants have constructed room in the suit schedule property. The defendant is in

peaceful possession and enjoyment of the property. It is necessary to plead in their written statement about the above said development made in the suit schedule property after filing the above suit. Hence, this application to amend the written statement.

3. For that plaintiff filed the objection and contended that, the defendants appeared through their counsel and filed written statement and this court was pleased to framed issues on 18.06.2019 and posted the above matter for plaintiff evidence on 30.07.2019. The plaintiff examined as PW.1 and got marked in all 13 documents and posted the above matter for cross-examination of PW.1 on 11.02.2020, but the defendants prayed time and obtained sufficient time and due to Covid-19 till 04.12.2021 the defendant sought the time for cross-examination but did not cross examined the PW.1, instead of that defendant filed I.A.No.III to amend the written statement, after hearing the same this court was pleased to dismissed the said application on 12.07.2022 and posted the above matter for cross of PW.1. On 11.08.2022 the defendants counsel partly cross examined the PW.1 and prayed time. Further the defendants have taken three adjournments but

did not cross examined, instead of that they again filed this false application to drag on the proceedings. Hence, this application filed by the defendants is liable to be dismissed.

4. The plaintiff submitted that, the amendment which have sought in the above application along with affidavit are all false and baseless. The amendment which have sought to add para No.20. During the existence of Grama Panchayath, there are several bogus entries of E-Katha's and other forgery entires were made out, in this regard as against the Grama Panchayth President, Computer operator and some of the officials the CCB registered the case and investigation is going on. The defendants have not produced the E-Katha of the alleged property i.e. 360/400/A.

5. Further contended that the approval plan issued by Harohalli PDO and Yojana Pradhikara, the defendants have constructed rooms in the suit schedule vacant site and also they have put up foundation for construction of RCC roofed house in the suit schedule property by retaining old country tiled house existing in the suit schedule property are

all false and baseless, more over the plaintiff lodged a complaint before the jurisdictional police on 10.03.2023 and the said police authorities once against warned the defendants to not to interfere with plaintiff's possession. Further submitted that, the suit schedule property absolutely belongs to the plaintiff has acquired the same from their family partition and katha has mutated in his name Panchayathi Vibhaga Parthra dated 29.08.2013, earlier the katha stands in the name of the Smt.Kondamma who is the mother of the plaintiff only.

6. The defendants sought the relief in the above application for amendment of written statement to add the certain alleged averments were not required to the above suit to decide the same in accordance with law. The suit schedule property katha No.214/360/400/1 measuring East to West 10.67 Mtrs. And North to South 21.34 Mtrs. Now the defendants contending that the suit schedule property changed as 360/400/A. As per Ex.P1 clearly shows that katha of the suit schedule property in the name of plaintiff. Such being the fact the contention of the defendants that phodi number of the suit property has been changed. The defendants and officials of Grama

Panchayath were colluded in each other and created bogus documents along with this application. Now he sought for amendment of the same, on last dates of hearing on 04.12.2021 the defendants have filed a similar application. Hence, prays to dismiss the application.

7. Heard both sides.

8. The following points arises for my consideration.

1. Whether the defendants have made out sufficient grounds to allow the application ?
2. What order ?

9. My answer to the aforesaid points are as under:

Point No.1: In the Affirmative

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

REASONS

10. **POINT NO.1.** After going through the entire materials available on record, the defendant filed this application to amend the written statement as stated that, during the pendency of the suit that is in the year 2020-21 the katha of the suit schedule property made

out in the name of wife of elder son of propositious Sri.Venkatappa namely Smt. K.V.Jayamma as per MR.No.155/2020-21 and the phodi number of the suit schedule property has also changed as 360/400/A. The defendant No.1 and said Smt.K.V.Jayamma partitioned the property through registered partition deed dated 30.06.2021 and the defendants came in possession of the schedule property and further contended that in the said property the defendant obtained the license and approved the plans from the Yojana Pradhikara and constructed the rooms and due to changes in the suit property the defendant filed this application. On the other hand the defendant denied the entire contents of the affidavit and contended that only to drag on the matter filed this application. The plaintiff further contended that there is no phodi and change of property number and also contended that the defendant did not furnished in the property extract of said property. Even at the time of filing of I.A.No.III he did not contended the alleged amendment.

11. After considering the both side contention this being a suit for injunction the plaintiff has to prove the possession over the suit property. As proper the contention of the defendant in suit property there is a

change of property number and also defendant contended that he has constructed the rooms and also produced some of the documents about the permission of constructions and other documents. Hence, considering the entire material this court is of the opinion that it is necessary to allow the application for proper adjudication of the case. Hence, this court is of the opinion that in the interest of justice it is necessary to allow the application. Hence, this court answered **point No.1 in the Affirmative.**

12. **POINT No.2:** For the reasons stated in the point No.1, this court proceed to pass the following:

ORDER

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

The defendant is directed to amend the written statement and furnish the amended written statement copy.

(Dictated to the Steno through electronic media, transcribed by her, corrected and then pronounced by me in the open Court on this the **18th day of July 2023**)

Sd/-
**Prl. Civil Judge & J.M.F.C.,
Kanakapura.**