

ORDERS ON I.A.No.IX

Sri.R.M.C.G. advocate for plaintiff filed this application U/O VI rule 17 r/w Sec.151 of CPC seeking to amend the plaint.

2. In the affidavit the plaintiff contended that, out of the schedule property the plaintiffs deceased mother Smt.Honnamma has also sold 13 guntas of land in favour of the father of the defendant No.2 namely Sri.Munigowda through registered sale deed dated 12.06.2001 for valuable consideration amount and by virtue of sale deed the said Sri.Munigowda is in possession and enjoyment of the above said extent of land as an absolute owner and after his death, the defendant No.2 is in possession and enjoyment of the above said extent as an absolute owner. But mistakenly the katha of the said extent of land is not made out in the name of father of the defendant No.2 in respect of purchased property, and katha stands in the name of father of the plaintiff. Due to inadvertence and due to ignorance and illiteracy the true facts are not pleaded. The plaintiffs actually in possession of agricultural land measuring 1 acre 26½ guntas in the suit

schedule property. Hence, it is necessary to amend the plaint as stated in the application. Hence, prays to allow the application.

3. On the other hand, Sri.SVV, advocate for defendants filed the objection and contended that, the application is not maintainable. The contents of the facts are all false. The defendants submitted that now the stage posted for plaintiff evidence, in this stage they are seeking to amendment of plaint is not maintainable. The plaintiffs filed this suit against the defendants for permanent injunction in the year 2014. But after lapse of 9 years plaintiffs filed this application seeking for amendment. The proposed amendment does not arise at all. The plaintiffs kept quite all these years and only to drag on the proceedings filed this baseless and frivolous application, alleged amendment will alter the nature of suit hence, application is not maintainable. Hence, prays to dismiss the application.

4. Heard both sides.

5. After going through the entire materials available on record, the plaintiff specifically

pleaded that, the plaintiffs have filed this suit for permanent injunction against the defendants in respect of land bearing Sy. No.104/10 measuring 1 acre 39 guntas 08 annas situated at Arekoppa Village, Uyyamballi Hobli, Kanakapura Taluk against the defendants. The plaintiffs contended that, they are the decedents of one Sri.Puttegowda. Now the plaintiffs are in joint possession and enjoyment of the suit schedule property in their own right by exercising their right of ownership and growing crops over the suit schedule property. Now the plaintiffs contended that, the mother of the plaintiffs sold the 13 guntas of land in favour of father of the defendant No.2 namely Sri.Munigowda by executing registered sale deed dated 12.06.2001, but due to purchaser name was not mutated to the extent of purchased land and the katha stands in the name of Sri.Puttegowda and recently came to know that the defendant No.2 purchased the property. the defendant No.2 is in his objection nothing has been stated about purchase of 13 guntas. In the objection contended that after lapse of 9 years filed this application at belated

stage and when the case is posted for plaintiff evidence. As per the records, the case is posted for plaintiff evidence as finally at that stage the counsel for the plaintiffs filed this application and the present application is necessary to allow as the portion of property was sold by the mother of the plaintiff in favour of father of the defendant No.2. Considering the entire material this court is of the opinion that, the alleged proposed amendment is necessary to proper adjudication of the matter and till today plaintiff evidence not yet adduced. Hence, this court proceed to pass the following;

ORDER

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

Plaintiffs are directed to amend the plaint and furnish the amended plaint copy.

Call on 15.07.2023.

Sd/-

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