

ORDERS ON IA.NO.8

The plaintiff has filed IA.No.8 U/O 6 Rule 17 R/w Section 151 of CPC with a prayer to permit the plaintiff to amend the plaint at the description of suit schedule property with regard to measurement, name of the taluk and boundaries.

The learned counsel for the defendant No.3 opposed to the present application by filing detailed objections. In the objections the defendant No.3 contended that the present application is not maintainable at this stage and prayed to dismiss the application.

Heard and perused.

Perused the contents of affidavit annexed to the present application and documents and also plaint averments.

Admittedly the plaintiff has filed the present suit against the defendants for Partition and Separate Possession in respect of suit schedule properties.

It is well settled principle of Law that in a civil suit as per Under Order 7 Rule 3 of CPC the identification of the immovable properties must be very clear and all the properties should be included in a suit for partition for effective result. Since the plaintiff has approached the court with some relieves as such, it is on the plaintiffs to plead and prove about the identification of properties on which he is claiming the relieves. The plaintiff is intending to rectify the measurement, name of the Taluk and boundaries as prayed in the application..

I have perused the averments of the plaint, application and documents. The burden to prove the description of the suit schedule properties and other pleadings is upon the plaintiff. While allowing this application, no harm or injury would be caused to the defendants and it will not amount to retraction of any admissions. Under such circumstances, the proposed amendment will not cause

any prejudice to the defendants as they will get every opportunity to cross examine the Plaintiff in this regard as well. The nature of the suit will not be changed by virtue of proposed amendment. Hence, viewed from this angle, plaintiff has made out grounds for allowing the application. By considering the facts and circumstances of case. I proceed to pass the following :

ORDER

IA.No.8 filed by the plaintiff U/O 6 Rule 17 R/w Section 151 of CPC is hereby allowed on cost of Rs.200/-.

The plaintiff is permitted to amend the plaint as prayed in the application and shall furnish amended plaint.

Call on 05.06.2025

Sd/-
Addl., Civil Judge & JMFC.,
Kanakapura.