

KARN410000522020



**IN THE COURT OF THE ADDITIONAL SENIOR CIVIL
JUDGE AND J.M.F.C., AT MAGADI.**

-:: PRESENT ::-
**SRI. SHIVAKUMAR R., B.A.L., LL.B.,
ADDITIONAL SENIOR CIVIL
JUDGE & ADDL. JMFC., MAGADI.**

**Dated: 2nd Day of December 2025
O.S.No.30/2020**

Plaintiff : Smt. Subhadramma

(By Sri. N.R.S. Advocate)

--V/s--

Defendants : Sri. Ramaiah & Ors.,
(D1 Dead)
(D2, 3, 4, 7 & 8 by Sri. T.K.H. Advocate)

PARTIES TO I.A.NO.3

Applicant : Smt. Subhadramma

Vs.

Opponent : Sri. Ramaiah & Ors.,

ORDER ON I.A.NO.III

When the matter is set down for further chief of PW-1,
the plaintiff has moved this I.A.



2. The plaintiff has filed the instant I.A., under Order VI Rule 17 r/w. Section 151 of C.P.C., and pleaded to permit her to amend the plaint as sought in the I.A.

3. The I.A., is supported with the affidavit of the plaintiff. It is stated in the affidavit that, the plaintiff has filed this suit for the relief of partition & separate possession and declaration and other other reliefs against the defendants with respect to the suit schedule properties. It is further stated that, at the time of filing of the suit by oversight and lack of legal knowledge the plaintiff could not intimated the above said facts and the facts regarding the custodian of the registered exchange deed dated 28-5-1973, subsequently the plaintiff came to know about the same and filed the above application to correct the same. For proper adjudication of the matter it is very just and necessary to allow the accompanying application. The proposed amendment will not change the cause of action or nature of the suit. Hence, this application.



4. The copy of I.A., was served to the defendants. The defendant No.2, 3, 4, 7 & 8 have filed the detailed objections and resisted the I.A., filed by the plaintiff and interalia contended that, the plaintiff side evidence completed very long back, the above case posted for further chief of the plaintiff, at that time the plaintiff filed this application. After completion of both side pleadings and after commencement of evidence of the parties, the either of parties cannot permitted to amend their own pleadings. The application is barred by limitation and the plaintiff filed this application only to drag the proceedings and kill the precious time of this Court. There is no ground to allow the application. The application filed by the plaintiff is speculative, vexatious, perverse and the same is not maintainable. For all these grounds, the aforesaid defendants pray to reject the I.A., with exemplary cost.

5. Heard arguments on both sides.



6. On perusal of the rival contentions and other materials placed on record, the following points that would arise for my consideration are :

1) Whether the I.A.No.III filed by the plaintiff is deserves to be allowed and whether the amendment sought by the plaintiff is very much necessary to determine the real controversy between the parties?

2) What order?

7. My findings on the above points are as follows :

Point No.1 : In the Affirmative,

Point No.2 : As per the Order,

for the following:

REASONS

8. **POINT NO.1:** On perusal of the materials available on record, admittedly the plaintiff has filed present suit against the defendants for the relief of partition & declaration in respect of suit schedule properties. When the matter is set down for the further chief of PW-1, at this stage, the plaintiff



has moved this I.A., and sought to permit her to amend the
plaint as sought in the I.A.

9. It is the urge of the plaintiff that, due to oversight at the time of filing of the above suit in the plaint pleadings, the plaintiff has not pleaded regarding the custodian of the registered Exchange Deed dated: 28.05.1973, the same fact has to be incorporate in the plaint pleadings.

10. Per contra, it is the urge of the defendant No.2, 3, 4, 7 & 8 that, the proposed amendment sought by the plaintiff after commencement of trial is not tenable. The plaintiff has filed this I.A., only with an intention to drag the proceedings and moreover the I.A., filed by the plaintiff is barred by Limitation.

11. At this juncture, I would like to refer Order VI Rule 17 of CPC which reads as follows :

***"The Court may at any stage of the
proceedings allow either party to alter or***



amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties:

Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial."

12. On perusal of the aforesaid provision, it is clear that, the parties to the suit are permitted to bring forward amendment to their pleadings at any stage of the proceedings for the purpose of determining the real questions in controversy between them. If such application is made after commencement of the trial, in that event, the court has to arrive at conclusion that in spite of due diligence, the parties could not have raised the matter before the commencement of



the trial. In the instant suit, the matter is set down for defendants' evidence.

13. At this juncture, I would like to refer the decision rendered by the Hon'ble Apex Court of India in the case of **Pandit Malhari Mahale Vs. Monika Pnadit Mahale and others**, reported in **(2020) 11 SC 549**, wherein the Hon'ble Apex Court held that:

"It is the primal duty of the court to decide as to whether such an amendment is necessary to decide the real dispute between the parties. Only if such a condition is fulfilled, the amendment is to be allowed."

14. In another decision rendered by the Hon'ble Apex Court of India in the case of **Rajesh Kumar Aggarwal and others Vs. K.K.Modi and others**, the same is reported in **(2006) 4 SCC 385**, wherein the Hon'ble Apex Court of **India** held that:



"The court should allow the amendment would be necessary to determine the real question of the controversy between the parties, but the same indisputably would be subject to the condition that no prejudice is caused to the other side."

15. The another decision of Hon'ble Apex Court of India reported in **2019 SCC On-line SC 194** between **M. Revanna Vs. Anjinamma**, pleased to explained under what circumstances an application for amendment of pleadings filed after commencement of trial can be allowed. The Hon'ble Apex court of India pleased to held that,

"Though normally amendments are allowed in the pleadings to avoid the multiplicity of litigations, the court need to take consideration whether the application for the amendment is bonafide or malafide and whether the amendment caused such prejudice to the other side which cannot be compensated in terms of money".



16. The ratio laid down in the aforesaid decisions are aptly applicable to the present case on hand. Admittedly it is a suit for partition & declaration against the defendants in respect of the suit schedule properties. In the instant I.A., the plaintiff has not sought for to amend the entire plaint, but she has sought for amendment only with regard to the facts narrated in the application. On perusal of the rival contentions of the both parties and other materials placed on record, this court has to arrive at conclusion that in spite of due diligence, the parties could not have raised the matter before the commencement of the trial. It is very pertinent to note that, on perusal of the materials available on record, the proposed amendment sought by the plaintiff in the I.A., is very much necessary to determine the real question in controversy between the parties. If the proposed amendment is allowed, it will not change the nature of the suit and also cause of action. If the application is allowed, there is no harm



caused to the other side. Considering all these reasons, I answer Point No.1 in the '**Affirmative**'.

17. **POINT NO.2** : In view of my findings on Point No.1, I proceed to pass the following :

ORDER

I.A.No.III filed by the plaintiff under Order VI Rule 17 r/w. Section 151 of CPC is hereby allowed on payment of cost of Rs.500/-.

The plaintiff is hereby directed to carry out the necessary amendment in the plaint and to file amended plaint copy in time by 19.12.2025.

(Dictated to the Typist directly on the computer, typed by her, corrected by me and then pronounced in the open Court, on this the day of **2nd day of December, 2025.**)

(Shivakumar R.)
Additional Senior Civil Judge & J.M.F.C.
Magadi.