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**IN THE COURT OF THE ADDL. SENIOR CIVIL JUDGE &
J.M.F.C., AT:MAGADI**

:Present:

**Sri. Hanumanth Satwik., LL.M,
Addl. Senior Civil Judge & JMFC., Magadi**

DATED: THIS THE 29th DAY OF MARCH, 2022

O.S.No.194/2016

Plaintiffs : 1. Sri. Narayanappa,
Since dead by his L.Rs.,

(a) Smt. Narasamma,
W/o. Late. Narayanappa,
Aged about 62 years,

(b) Sri. Srinivasa B. N.,
S/o. Late. Narayanappa,
Aged about 40 years,

(c) Sri. Vijay Kumar B. N.,
S/o. Late. Narayanappa,
Aged about 36 years,

(d) Sri. Channakeshva B. N.,
S/o. Late. Narayanappa,
Aged about 31 years,

All are R/at: Byadarahalli,
Solur Hobli,

Magadi Taluk,
Ramanagara District.

(By Sri. **C.K.R.** Advocate)

V/s

Defendants

:

1. Smt. Chikkarangamma,
Since dead by her L.Rs.,
2. Sri. Narasimhaiah,
Since dead by his L.Rs.,

(a) Smt. Jayamma,
W/o. Late. Narasimhaiah,
Aged about 60 years,

(b) Smt. Gangalaxmamma,
W/o. Nagaraju,
D/o. Late. Narasimhaiah,
Aged about 45 years,
R/at: Baginagere Village,
Thippasandra Hobli,
Magadi Taluk,
Ramanagara District.

(c) Smt. Lakshamma @
Parvathamma,
W/o. Mohan Kumar,
D/o. Late. Narasimhaiah,
Aged about 42 years,
R/at: Gavinagamangala Village,
Madabal Hobli, Magadi Taluk,
Ramanagara District.

(d) Sri. Paramashivaiah @ Nandish,
S/o. Late. Narasimhaiah,
Aged about 35 years,

D2(a & d) are R/at:
Byadarahalli,
Solur Hobli,
Magadi Taluk,
Ramanagara District.

3. Smt. Lakshamma,
D/o. Late. Chaluvaiah,
Aged about 68 years,
4. Smt. Kamalamma,
S/o. Late. Chaluvaiah,
Aged about 65 years,

D3 & 4 are R/at:
Adilinganapalya Village,
Thippasandra Hobli,
Magadi Taluk,
Ramanagara District.

5. Sri. Gangadharaiah,
S/o. Late. Chaluvaiah,
Aged about 58 years,
6. Sri. Channegowda,
S/o. Late. Chaluvaiah,
Aged about 55 years,
7. Smt. Jayamma,
W/o. Narasimhaiah,
Aged about 68 years,

D6 & 7 are R/at:
Byadarahalli,
Solur Hobli,
Magadi Taluk,
Ramanagara District.

8. Smt. Shivamma,
W/o. Gangadharaiah,
Aged about 50 years,

D5 & 8 are R/at:
Near Vijayalakshmi Kalyana
Mantappa, 11th Cross,
Vishwaneedam Post,
Muttarayaswami Badavane,
Sunkadakatte, Bangalore-91.

9. Smt. Sultana Syed,
W/o. Syed Aleemuddin,
Aged about 38 years,
R/at: Aleem Villa, No.5,
2nd Cross, Nandidurga Road,
Jayamahar Badavane,
Bangalore – 560046.

10. Smt. B. G. Pushpalatha,
D/o. Gangadharaiah,
Aged about 26 years,

11. Smt. B. G. Jyothi,
D/o. Gangadharaiah,
Aged about 24 years,

12. Sri. B. G. Chethan,
S/o. Gangadharaiah,
Aged about 21 years,

13. Sri. B. G. Uday,
S/o. Gangadharaiah,
Aged about 19 years,

D10 to 13 are R/at:
Near Vijayalakshmi Kalyana

Mantappa, 11th Cross,
Vishwaneedam Post,
Muttarayaswami Badavane,
Sunkadakatte, Bangalore-91.

(Defendant no.2 (a to d) by Sri. Advocate)
(Defendant no.3 to 8 by Sri. **M.N.** Advocate)
(Defendant no.9 by Sri. **S.N.** Advocate)
(Defendant no.1 **dead**)

ORDER ON IA No.8

The present suit is for partition and separate possession.
The plaintiffs further pray for declaration and permanent injunction.

2. Defendant no.6 filed the present application U/o.VI rule 17 of CPC seeking permission of this court to allow him to amend the written statement. The defendant submits that his previous advocate submitted the written statement with wrong information. He got to know about the proposed amendment recently. He changed his advocate and submitted the present application. In this regard, defendant no.6 prays as above.

3. Defendant no.5 in his objections denied the application averments. The defendant contended that at this stage of the case application for amendment is not maintainable. If application is allowed, the cause of action will change. Defendant no.6 already admitted about the proposed amendment. As such, he cannot deny the same. If defendant no.6 intends to amend the written statement, he can file separate suit. The proposed amendment is beneficial to the plaintiff. The present application is filed because of conflict among the brothers. Defendant no.6 himself gave information to his advocate. As such, he cannot seek amendment of the written statement. The advocate concerned is required to be examined about obtaining wrong information and the court has to examine the same. He already admitted that the suit schedule properties were purchased, which averment of him has been admitted by defeated no.6. In this regard, defendant no.5 prays to reject the application.

4. Heard arguments of counsel.

5. Considering the contentions of the counsel, following points arise for my consideration.

1. Whether defendant no.6 has made out sufficient grounds for allowing him to amend the written statement?
2. What order?

6. My findings for the above points are as under.

Point No.1: In the negative,

Point No.2: As per final order.

For the following,

REASONS

POINT NO.1:-

7. In the case at hand defendant no.6 sought for amendment of the written statement. The defendant submits that his previous advocate submitted the written statement with wrong information. He got to know about the proposed amendment recently. He changed his advocate and submitted the present application. In this regard, I have perused the order sheet and

materials on record. Be it stated in the case at hand the written statement was filed by defendant no.2 and 5 to 8 jointly. Further, the application for amendment and the objections of defendant no.5 indicates that defendant no.6 intends to amend the joint written statement unilaterally. Be it noted, the application has been opposed by defendant no.5, with whom defendant no.6 jointly filed the written statement. Be it stated, the written statement having been filed jointly by defendant no.2 and 5 to 8, defendant no.6 unilaterally cannot amend the written statement. In this view of the matter, I am of the view that defendant no.6 has not made out any grounds to permit him to amend the written statement. Accordingly, I decide point No.1 in the Negative.

POINT NO.2:

8. In view of reasons on point No.1, I proceed to pass the following:

ORDER

**IA No.8 U/o.VI Rule 17 r/w.
Sec.151 of CPC filed by defendant no.6
is hereby rejected on cost of Rs.200/-.**

(Dictated to the Typist directly on the computer, typed by her, corrected by me and then pronounced in the open court on this the **29th day of March, 2022.**)

**(Hanumanth Satwik)
Addl. Sr. Civil Judge &
JMFC.,
Magadi.**