

ORDERS ON I.A.No.XII

The advocate for the petitioner has filed this application under Order VI Rule 17 R/W.Sec.151 of CPC, for amendment of the petition to insert proposed para No.4(a) as stated in the application for the reasons stated in the enclosed affidavit.

2. Petitioner has sworn to the affidavit filed with the application and stated that F.D.P No.19/1998 filed by his sister in law N.Sumithra and her son Sunil has been allowed allotting her share and accordingly survey sketch prepared by the court commissioner and partition has been registered before the Sub-registrar, Bhadravathi in respect of share allotted to her. In the said FDP no share has been carved out in respect of remaining sharers which has been kept intact together. Therefore, this petition has been filed to carve out his share without affecting the order passed in FDP 6/2019. Therefore, he intends to insert proposed paragraph No.4(a) in the petition. It is requested to allow the application.

3. The respondent No.7 has filed objections to the application and stated that this petitioner has not sought his share in the earlier FDP 19/1998 and FDP No.6/2009. Further, it is stated that in his proceedings also the petitioner has not stated definite share pertaining to the 7th respondent. Further, it is stated that the first respondent Smt. Siddamma W/o. K.Aneppa has bequeathed her share in favour of her daughter Sukanya who is the 7th respondent herein. Accordingly, partition

requires to be made. Further, it is stated that earlier commissioner's report, sketch and map have not been disclosed definite share of respondents 1 and 7. Further, this respondent has stated that it is not proper and correct to permit the petitioner to insert proposed paragraph in the petition.

4. Having heard the arguments of both sides' counsel, perused the application, objections and proposed amendment along with pleadings.

5. The points that would arise for determination of the court are:

1. Whether the petitioner has made out grounds to grant permission to amend the petition?
2. What Order?

6. My answer to the above points are:

Point No.1: In the affirmative.

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

REASONS

7.Point No.1:- The petitioner intends to insert proposed paragraph No.4(a) to state in respect of proceedings in the earlier FDP 19/1998. By this proposed amendment no hardship or prejudice would be caused to the respondent, more particularly to the respondent No.7 herein, who has filed objection to the petition. This proposed amendment would clarify the facts for adjudication of the rights of the

parties involved herein. In the objections, respondent No.7 has not made out any grounds to discard the permission to the petitioner to amend the petition as stated therein. Therefore, I answer point No.1 in the affirmative.

8.Point No.2: In view of my answer to point No.1 in the affirmative, I proceed to pass the following:

ORDER

I.A.No.XII filed by the counsel for the petitioner under Order VI Rule 17 R/w section 151, is hereby allowed.

Counsel for the petitioner is permitted to insert proposed paragraph No.4(a) by way of amendment on or before next date of hearing and submit the amended petition accordingly.

Parties to bear costs.

Prl. Sr.Civil Judge and JMFC.,
Bhadravathi.

