

ORDERS ON I.A.No.9, DATED 01.04.2022

The plaintiff's legal heirs' advocate has filed the above IA., U/o 6 Rule 17 r/w Sec.151 of CPC., along with supporting affidavit seeking for proposed amendment, as stated in their above interim application.

2. *In the supporting affidavit, the plaintiff's legal heir No.(d) has deposed that;* the plaintiff's father during the pendency of the case has expired on 06.02.2020, hence, the legal heirs have come on record and the stage is for cross-examination of PW.1, but that facts as pleaded in the plaint is not in consonant with the real facts of the joint family properties and ancestral properties, which requires an amendment to that effect.

3. That the suit schedule properties are the joint family properties, as partition has not not been effected, but C.M. Muniyappa has contended that, the suit schedule properties are the self-acquired properties, but the suit schedule properties are the properties granted to C.M. Muniyappa for and on behalf of joint family and the premium was paid out of the joint family funds. Hence contends that, the suit schedule properties are the joint family properties of plaintiff's legal heirs and defendants No.1 to 8. In view of above contentions, seeks to allow the above IA.

4. *The defendants No.1 to 6 have filed the objections to the above IA., contending that, the above IA., is not maintainable, that it is filed after 4 years of the present case at the stage of evidence. That, the plaintiff's legal heirs have not given any proper reasons as to why the said pleading was not taken up at the initial stage and have taken contention of revenue Adalath and as suit schedule properties have been granted for and on behalf of joint family in the name of C.M. Muniyappa has been denied and has denied the revenue Adalath proceedings. Hence, prays to reject the above interim application with costs.*

5. Heard and perused the material on record.

6. The plaintiff has filed the suit for partition and at the stage of evidence wants to plead regarding the status of the joint family properties and status of the joint family properties contending that, the suit schedule properties have not yet been partition and that, C.M. Muniyappa has been granted properties for and on behalf of joint family and seek for partition in the said properties also. The above amendment is sought by the legal heirs of plaintiff. The plaintiff should be given an opportunity to amend the plaint, in order to decide the matter on merits and to resolve the dispute of partition once for all comprehensively, but delay has been caused by the plaintiff in pleading the same at the earlier stage. The delay caused may be met with by imposing costs. The defendants will be having

every opportunity to file re-joinder written statement and have opportunity to cross-examine plaintiff's witnesses on merits. Hence, I proceed to pass the following;

ORDER

I.A.No.9 filed by the plaintiff's legal heirs U/o 6 Rule 17 r/w Sec.151 of CPC., is ***allowed*** with cost of Rs.**1000/-**.

The plaintiff's legal heirs are directed to proceed with the trial without any delay, if not legal consequences shall follow.

(LATHADEVI G.A.)
Senior Civil Judge, Malur.

The plaintiff's legal heirs are directed to carryout the amendment and to file amended plaint by:

Senior Civil Judge, Malur.