

KASM700024852022



**IN THE COURT OF THE ADDL. CIVIL JUDGE AND
JMFC., AT SORABA**

Present: Sri.Raghavendra Upadhye, (B.A.LL.M.),
C/c Addl. Civil Judge & JMFC., Soraba.

Dated this the 27th day of October 2023

O.S.No.232/2022

Plaintiff : Sri. Mohana
V/s.

Defendants : Smt. Shanthamma and others

ORDER ON I.A.No.III

Applicant : Sri. Mohana S/o Budyappa @ Buryappa
Aged about 24 years,
R/o Kaspadi village, Anandapura hobli,
Sagara Taluk, Shivamogga District.

(By Sri.K.S.S- Adv.)

V/s.

Opponent : Smt. Shanthamma and others

(By Sri. M.N.A Adv.)

**ORDER ON I.A.No.III FILED BY THE PLAINTIFF U/O VI RULE
17 OF C.P.C**

The plaintiff has filed the application under Order VI rule 17

of CPC.

2. In support of application, the plaintiff has filed affidavit and submitted as under.

At line no.9 of para No.2 of plaint Arjunappa has been mentioned instead of Budyappa @ Buryappa. The plaintiff has submitted that due to oversight his father name has been mentioned as Arjunappa instead of Budyappa @ Buryappa in para No.2 at line No.9 of plaint. The proposed amendment is necessary. Hence prayed to allow the application.

3. The defendants have not filed the objection.

4. Heard.

5. The following points arise for consideration of the court.

POINT

1. Whether the proposed amendment is necessary for the adjudication of the matter?

2. What order?

6. The findings on the above points are as under:-

Point No. 1: In the Affirmative.

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

REASONS

7.Point No. 1: The plaintiff has filed this suit for partition and separate possession. Under the present application filed by the plaintiff has sought for the amendment of plaint.

8. The proposed amendment ವಾದ ಪತ್ರದ ಪ್ಯಾರಾ .2 ರಲ್ಲಿ 9 ನೇ ಸಾಲಿನಲ್ಲಿನ ಅರ್ಜುನಪ್ಪನು ಎಂಬುದನ್ನ ತಿದ್ದುಪಡಿ ಮಾಡಿ ಬೂದ್ಯಪ್ಪ ಯಾನೆ ಬೂರ್ಯಪ್ಪ ಎಂದು ತಿದ್ದುಪಡಿ ಮಾಡಲು.

9. In the affidavit, the plaintiff has submitted that due to oversight his father name has been wrongly mentioned as Arjunappa instead of Budyappa @ Buryappa. It is pertinent note here that, even in the cause title the father name of plaintiff has been mentioned as Budyappa @ Buryappa. In the family tree submitted in para No.2 also name of the father of the plaintiff mentioned as Budyappa S/o Buryappa. Neither in the plaint averments nor in the family tree there is reference about the Arjunappa. Therefore it appears that name of Arjunappa has been mentioned in para No.2 due to oversight. Therefore, it is necessary to permit the plaintiff to amend the plaint to avoid confusion in future. If the proposed amendment is not allowed, it will cause inconvenience to the plaintiff and Court for the proper adjudication of the matter. Therefore, the proposed amendment is necessary for the proper adjudication of the matter.

10. As noted above, the defendants have not filed any objection. Even though case is posted for the plaintiff evidence, The defendants have not filed the written statements. Therefore, no loss will be caused to defendants. For proper adjudication of the matter application deserves to be allowed. Therefore , point No.1 is answered in affirmative.

11. **Point No. 2:** For the reason discussed on point No. 1, the Court pass following;

ORDER

The IA No.III filed by the plaintiff under Order VI rule 17 of Civil Procedure Code is hereby allowed.

The plaintiff is permitted to amend the plaint and directed to furnish amended copy of plaint.

(Dictated to the stenographer, typed transcript corrected and then pronounced by me in the open court on this the 27th day of October 2023)

C/c. Addl.Civil Judge and JMFC.,
Soraba.

