

IN THE COURT OF THE PRL.CIVIL JUDGE & J.M.F.C.,
AT CHIKKANAYAKANAHALLY.

Dated: This 27th day of August 2019.

Present: SMT.PRAMEELA M., B.Com., LL.B.,
Principal Civil Judge & JMFC.

OS No.51/2016.

Plaintiff:

Thammaiah s/o Ganganna,
a/a 63 years,
Permanent resident of
Chikkanayakanahalli town,
Now residing at 1st floor,
No.42, Ananda Gokula Apartment,
Chikkalakkasandra,
Ramanjanya nagar,
Bangalore-61.

(By Pleader **Sri.C.Rajashekharaiiah**)

//versus //

Defendants:

1. Siddappa s/o Ganganna,
a/a 65 years,
Near Siddeshwara mutt,
Ward No.18,
Chikkanayakanahalli town,
Tumkur district.
2. Shankaramma w/o late Mastaiah,
Major,
Resident of Hagalwadi,
Nittur hobli,
Gubbi taluk,
Tumkur district.
3. Lakshmiddevamma w/o Ningaiah,
a/a 55 years,

Resident of Shukrawara bagilu,
Chikkanayakanahalli town,
Tumkur district.

4. Nagaraju s/o Siddappa, a/a 32 years,
Resident of Near Siddeshwara mutt,
Ward No.18,
Chikkanayakanahalli town,
Tumkur district.
5. Latha w/o Kumara d/o
Siddappa, a/a 29 years,
Resident of Near Siddeshwara mutt,
Ward No.18,
Chikkanayakanahalli town,
Tumkur district.
6. Umesha s/o late Ramaiah,
a/a 30 years,
Resident of Door No.27,
Halebeedu,
Kariyammana gudi,
Belur taluk,
Hassan district.

(By Pleader **Sri.N.N.Sreedhara**,
for defendant Nos.1, 3 to 5,
By Pleader **Sri.G.B.Adarsha**,
for defendant No.6,
Defendant No.2 – exparte)

IA.NO.VIII

Petitioner : Thammaiah.

Versus

Respondents : Siddappa and others.

ORDERS

1. The applicant/plaintiff has filed this IA.No.VIII under order 8 rule 6(a) r/w., section 151 of CPC with prayer to permit him to file reply rejoinder to the written statement filed by the defendant No.1.
2. The application is supported with an affidavit duly sworn by the applicant/plaintiff that, defendant No.1 and defendant No.3 to 5 filed written statement that, Item No.2 and 3 of the suit schedule properties are purchased by defendant No.1 from one Sreenivasaiah and Ramachandraiah. It is further contended that, Item No.6 purchased by the defendant No.1 under the registered sale deed and Item No.5 bequeathed by Rangamma through registered Will dated 3.8.1995. So those properties are the self-acquired properties of defendant No.1. In this regard some explanation is to be required through re-joinder. Therefore, prayed to permit the plaintiff to file rejoinder.
3. On the other hand the defendants filed objection by contending that, to drag the proceedings and to delay the disposal the plaintiff filed the present application after framing of issues. Hence, the application filed by the plaintiff is not maintainable. It is further contended that the plaintiff has taken so many adjournments for evidence and he has not mentioned bonafide grounds to consider the application. Hence, prayed to dismiss the application.
4. Heard arguments of both sides on IA.No.VIII.

5. Perused the materials on record.

6. The following points arise for consideration of this court:-

1. *Whether the applicant has made out good ground to permit the plaintiff to file rejoinder?*

2. ?

3. *If so, for what order?*

7. My findings on the above points are as under: -

Point No.1 : In the affirmative.

Point No.2 : As per final orders,

for the following-

REASONS

8. **Point No.1:** The plaintiff filed the suit against the defendants for the relief of partition and separate possession with respect to suit schedule property by asserted that the suit schedule properties are the ancestral and joint family properties and he got legitimate share over the suit schedule properties. The defendant denied the said matter by resisting the claim of the plaintiff by filing written statement.

9. In the written statement the defendant has specifically contended that, Item No.2, 3, 5 and 6 are the self-acquired properties of defendant No.1. He acquired some properties through registered sale deed and some properties acquired through Will. Admittedly in this regard the plaintiff has not contended in the pleadings. It is further admitted that, after filing of written statement the plaintiff has not filed rejoinder. But now filed present application by seeking permission by stating that, the

plaintiff is a aged person. Due to ill-health he could not contact the Advocate and provide information regarding written statement of defendant. On carefully gone through the reasons assigned by the plaintiff and also pleadings and objection of both the parties, it is clear that, the defendant No.1 has taken specific contention that, Item Nos.2, 3, 5 and 6 are the self-acquired properties of him. The plaintiff has specifically stated in the affidavit that those properties are purchased by defendant No.1 through joint family income. So the plaintiff intended to plead the same through rejoinder. As such the court opines that it is necessary to permit the plaintiff to file rejoinder.

10. Admittedly, there is a delay in filing of the application as well as rejoinder. Mere on the ground of delay substantial justice cannot be denied. Moreover the delay may be condoned by imposing cost, no injustice cause to the defendants. Therefore, in the interest of justice, point no.1 is answered in the affirmative.

11. **Point No.2:** In view of the above discussion, I proceed to pass the following-

ORDER

IA.No.VIII filed by applicant under order 8 rule 6(a)
r/w., section 151 of CPC is hereby allowed on cost of
Rs.200/-.

(Dictated to the Stenographer, transcribed and computerized by him, then corrected and pronounced by me in the Open Court on this 27th day of August 2019.)

(Prameela.M)
Prl.Civil Judge & JMFC,
Chikkanayakanahalli.