



**IN THE COURT OF THE PRL. CIVIL JUDGE & JMFC AT
GUBBI**

Dated this the 28th day of January 2026

Present:

**Sri. KIRAN S.P., B.B.M., LL.B.,
Prl. Civil Judge & JMFC, Gubbi**

OS No. 297/2018

Plaintiff :- Smt. Chandamma

-V/s-

Defendants :- Smt. Doddamma and Others

CAUSE TITLE ON I.A. No.7

Applicant :- Sri. Basavaraj (Defendant No.5)

(By Smt. S.B., Advocate)

-V/s-

Respondents :- Smt. Chandamma (Plaintiff)

(By Sri. C.R.B., Advocate)

ORDER ON I.A. No.7:

The defendant has filed IA No.7 U/O 6 rule 17 of CPC praying for leave of the court to amend the written statement as indicated there in. The proposed amendment reads as follows:



To add as 12) "The market value of the suit schedule properties is more than 2,00,00,000/- (Two crores) but the plaintiff has made under valuation to the suit schedule properties and paid insufficient court fee. Hence the Hon'ble court may kindly be pleased to be tried as preliminary issue on market value and this Hon'ble court has no jurisdiction to decided the matter because of the value of the plaintiff share is more than Rs. 5,00,000/- (Five Lakh)".

To add as 13) "the plaintiff has not made party some persons who are the joint owner as mentioned in colum no 9 of RTC by name Siddaiah, Narayanappa, S.C. Kempanna, Ganganna, Mahalingaiah and Channabasavaiah, Kempasiddaiah, they are also necessary parties hence the suit be dismissed for non joinder of necessary party in the above case in the interest of justice."

02. In the accompanying affidavit, it is stated that the plaintiff filed suit for partition and separate possession 1/6th share in the suit schedule properties. The plaintiff has made under valuation and paid insufficient court fee to the suit schedule properties. The suit schedule properties is worth about Rs.2,00,00,000/- (Two Crores) but she has filed a suit before this Hon'ble Court. This



suit is not come within the jurisdiction of this Hon'ble court. The plaintiff has filed suit without made a party the joint owners who are mentioned in RTC column No.9. The applicant couldn't plead at the time of filing the written statement above facts by over site. The non pleaded at the time of written statement is bonofide not any intention. No new cause of action will not arise if this application will be allowed and also new case will not arise the facts of the case will not be changed. The nature of the suit is also not be changed. If this application will be allowed no prejudice will be caused to the other side. if this application will not be allowed the applicant will be put into great hardship and injury. On these grounds he prays to allow the application.

03. This application is resisted by the plaintiff by filing objections. It is stated in the objections that the above said application is not maintainable either in law or on facts. The plaintiff has sworn to a false affidavit and he is put to strict proof of the same. The amendment sought for by the plaintiff with respect to valuation of suit schedule properties is incorrect and the plaintiff has paid the required court fee on the plaint and the above suit filed is within the pecuniary jurisdiction of this hon'ble court. The amendment sought for as for para No.13 that Siddaiah, Narayanappa, S.C.Kempanna, Ganganna,



Mahalingaiah, Channabasavaiah and Kempasiddaiah are necessary parties to the suit are incorrect. Chikkakempaiah of Seegenahally had got five sons namely Kempanna, Chikkanna, Doddasiddaiah Siddappa and Ganganna. The said sons of Chikkakempaiah had divided their joint family properties long back and they were enjoying the properties that had fallen to their shares separately. In the said partition suit schedule properties were fallen to the share of Ganganna, the father of the plaintiff. The khata and pahani of the suits chedule properties were also mutated into the name of said Ganganna. The above said brothers of Ganganna after dividing their joint family properties had got separate mess, residence etc. They were meddling the said properties fallen to the shares separately and also they had sold properties fallen to their shares. There is no joint family in existence consisting of Ganganna and his brothers. The 5th defendant has filed the above said application in order to drag on the proceedings to avoid to give the share to the plaintiff in the suit schedule properties.

04. Heard arguments and perused the pleadings and materials placed on record.

05. The point that arises for consideration is as follows:



“Whether the proposed amendment is just and necessary to decide the real dispute in controversy between the parties to the suit?”

06. The finding on the above point is in the affirmative for the following:

REASONS

07. The plaintiff has filed the suit against the defendants for the relief of partition and separate possession over the suit schedule properties. It is noticed from the order sheet of the case that the trial has already been commenced, at the stage of further cross examination of PW1, the defendant No.5 has filed this application.

08. On-going through the proposed amendment, the defendant No.5 is seeking to add two more para to his written statement as para No. 12 and 13 by way of proposed amendment. On-going through the proviso of Rule 17 of order 6 of CPC, it is very much clear that, no application for amendment shall be allowed after the trial has commenced; in the instant case evidence is already commenced. But if the proposed amendment is not allowed, it may leads to multiplicity of proceedings, if the proposed amendment is allowed, no loss or injury will be



caused to the plaintiff. The defendant No. 5 claimed his case by way of proposed amendment, an opportunity has to be given to the defendant No. 5 to prove his case as per ascertainment of facts on the basis of oral and documentary evidence, hence I deem it appropriate to allow the application. Hence I answer the above point in the affirmative and proceed to pass the following;

ORDER

I.A No. 7 filed by the defendant No. 5 under Order 6 Rule 17 of CPC is hereby allowed on cost of Rs.200/-.

The defendant No. 5 is permitted to amend his written statement as indicated in IA.

(Dictated to the stenographer, transcribed by her, corrected and then pronounced in the open Court on this the 28th day of January 2026)

Sd/-

(KIRAN S.P.)

Prl. Civil Judge & JMFC,
Gubbi.