

ORDER ON I.A.No.III

The plaintiff No.2 has filed I.A.No.III under Order 6 Rule 17 of CPC., seeking amendment of plaint.

2. The plaintiff No.2 has sworn to an affidavit in support of the I.A. and contended that, he has filed the suit for partition and separate possession, At the time of filing the suit due to oversight he could not add the house property, hence he intends to amend the plaint by adding house property in the suit schedule. The proposed amendment will not change or alter the nature of the suit. Hence, prays to allow the application in the interest of justice.

3. Defendants have filed objection to this I.A. and denied I.A. and affidavit averments as false and further contended that the property mentioned in I.A belongs to one Hanumanthappa who is father of Sriramaiah and husband of 1st defendant. Said Sriramaiah was in possession and enjoyment of said property and after his death defendants are enjoying the same as absolute owners. Plaintiffs have no manner of right, title, possession over the said property. The proposed amendment will change the nature of the suit or cause of action. Hence, prays to dismiss the I.A. with cost in the ends of justice.

4. Heard on I.A and perused the materials placed before me.

5. The points that arise for my consideration are as follows;

1. Whether I.A.No.III filed by the plaintiff No.2 under Order 6 Rule 17 of CPC., is deserves to be allowed?
2. What order?

6. My findings to the above points are as follows;

POINT No.1 : In the Affirmative

POINT No.2 : As per final order
for the following;

: REASONS :

7. **POINT No.1:** The plaintiffs have filed the suit for partition and separate possession in respect of two agricultural lands. Defendants have filed written statement by denying plaint averments as false. This court has framed issue and matter is posted for evidence and at this stage present application is filed to add house property in the suit schedule. Though defendants have filed objection to this I.A., at the time of arguments they have submitted that it may be allowed on cost. Merely adding properties will not amounts to proof that said properties are the ancestral and joint family properties. Proposed amendment will not change the nature of the suit or cause of action. Hence, the application deserves to be allowed. Accordingly, I answer **Point No.1 in the Affirmative.**

8. **POINT No.2:** For the aforesaid reasons, I proceed to pass the following:

: ORDER :

I.A.No.III filed by the Plaintiff No.2 under Order VI Rule 17 of CPC., is hereby allowed on cost of Rs.200/-.

Plaintiffs are permitted to carry out amendment and furnish amended plaint.

**Sd/-
Prl. Senior Civil Judge & JMFC.,
Madhugiri.**