

IN THE COURT OF PRL. CIVIL JUDGE & JMFC., AT SIRA

O.S.NO.368/2013

Dated this the 3rd day of June 2017

PRESENT: Smt. Dhanalakshmi R.
B.Sc., LL.B.,
Prl. Civil Judge & JMFC., Sira

PLAINTIFF: Hemanth Kumar S/o. Shantaraju,
aged 26 years, R/o. Hunjanalu,
Kallambella hobli, Sira taluk.
(By Sri. LNM., Advocate)

/Vs/

DEFENDANTS: Shantharaju S/o. late Narasegowda,
Aged 60 years, R/o. Hunjanalu,
Kallambella hobli, Sira taluk & others.
(By-Sri PMR & Sri.MB., Advocates)

I.A.No.3

Applicant: Chandregowda

-Vs-

Opponent: Hemanth Kumar

ORDERS

I.A.No.3 is filed by the 4th defendant U/O.6 Rule 17 of CPC to amend the written statement

2. In the affidavit annexed to the application the 4th defendant has stated that one Seebanna @ Seebegowda has filed O.S.311/2001 against himself and others. The said suit came to be disposed.

Regarding filing of the said suit, the 4th defendant want to amend the pleadings. Hence the present application.

3. The plaintiffs have filed objection contending that the present application is filed without any valid documents. The proposed amendment will introduce new facts. The said application is filed after commencement of the trial. Hence prays to dismiss the application.

4. Heard both sides. Perused the records.

5. The following points that would arise for my consideration are;

1. Whether the proposed amendment is necessary to adjudicate the dispute between the parties ?

2. What order ?

6. My findings on the above points are as under;

Point No.1 : In affirmative.

Point No.2 : As per Final Order
for the following;

REASONS

8. **Point No.1:-** The plaintiffs have filed this suit for partition and separate possession of the suit schedule properties. The suit is at the stage of cross-examination of PW-1. The present application is filed by the 4th defendant to amend the written statement with respect to filing of O.S.311/2001. Further stated that in the said suit, item No.2 of the suit property has been sold

to him. Hence proposed amendment has to be inserted to adjudicate the dispute between the parties.

9. The plaintiff has contended that without filing any valid documents and after commencement of the trial, the present application is filed.

10. It is seen that the suit is at the stage of cross-examination of PW-1. In the proposed amendment the 4th defendant wants to amend the fact of filing of O.S.311/2001 and findings given in the said suit. It is seen that the proposed amendment will not change the nature of defence taken by the defendants. If the proposed amendment is allowed, no hardship or loss will be caused to the defendants. However it is seen that O.S.311/2001 is filed in the year 2001 i.e. prior to the filing of this suit. The 4th defendant is at liberty to include the proposed amendment in the earlier stage itself. Since the application is filed belatedly, this court deems fit to impose cost. Hence, for the above reasons above point is answered in the **affirmative**.

11. Point No.4 : In view of above findings, I proceed to pass the following;

ORDER

**I.A.3 filed by the 4th defendant U/Or.6
Rule 17 of CPC is hereby allowed on cost of
Rs.200/-.**

(Dictated to the stenographer, transcribed, computerized and printout taken by him, then corrected, singed and pronounced by me in the open Court on 3-6-2017)

**(Dhanalakshmi R.),
Prl. Civil Judge & JMFC.,
Sira.**

