

IN THE COURT OF THE SENIOR CIVIL JUDGE , AT: ANKOLA.

Dated this the 11th day of July 2023

PRESENT :

Sri. Manohara M.

LL.M.

Senior Civil Judge, Ankola.

O.S. No.4/2022

Petitioner Vidya Manohar Achari & 2 others

-Vs-

Respondents Parvati Jagannath Achari & 3 others

ORDERS ON IA NO. V UNDER ORDER VI RULE 17 R/W

SECTION 151 of CPC

The defendant filed this application to amend the petition as as prayed in the application.

2. In support of this application the GPA holder of defendant no.4 has sworn to an affidavit stating that at the time of filing of written statement he did not write her share specifically as 1/8th share due to over sight. The non mentioning of the same was not an intentional one. But skipping of those specific words mentioned in the accompanying application would cause her a loss of share in the eyes of law. The suit is for partition and

amendments sought are very much necessary to determine shares of each parties to this suit. Hence this application is filed.

3. The learned counsel for plaintiff submitted that this application is filed in delay and hence the application may be dismissed.

4. Heard the learned counsel for both the sides and perused the records.

5. The points that arise for my consideration as under:

1. Whether the proposed amendment is necessary to determine the real controversy between parties ?
2. What order ?

6. My answers on the above points is as under:

Point No.1 : In the Affirmative

Point No.2 : As per final order

for the following:

REASON:

7. **Point No.1:** Admittedly the plaintiff filed this suit for partition and defendant no.4 filed written statement claiming his share in the suit schedule properties. Now the plaintiff sought to amend his written statement by adding a heading as counter claim and 1/8th share in para 5 and in the prayer part. As the defendant no.4 as claimed his right of share in the suit schedule properties, the mentioning of the specific share and the above proposed amendment does not change the nature of the suit. The said amendment is necessary to determine the real controversy between the parties. Consequently, I answer Point No.1 in the affirmative.

8. **Point No.2:** In view of the above findings on point no.1, I proceed to pass following:

ORDER

IA No. V u/Order VI Rule 17 R/W.
Section 151 of CPC filed by defendant
no.4 is allowed on cost of Rs.150/-.

(Dictated to the Typist, typewritten by
him, the same corrected by me and then
pronounced in the open court on 11th July
2023.)

Senior Civil Judge, Ankola.