

Orders on I.A.

The defendants have filed I.A. under Order VI Rule 17 r/w Sec.151 of C.P.C. praying this court to permit the defendants to amend the written statement as stated in the application.

The defendant No.3 has sworn to the affidavit that the above case is posted for further cross of P.W.2. At the time of filing written statement by over sight the defendants forgot to incorporate pleadings regarding caste of the parties to the suit and also regarding non-maintainability of the suit. While preparing for cross examination as per Hindu Succession Act the Schedule Tribes are not entitled for partition and the said contention is not taken in the written statement and if such a plea is not taken in the written statement the defendants cannot defend the suit. Moreover, the P.W.1 in his cross examination admitted that the plaintiffs and defendants belong to Schedule Tribe. Therefore it is quite necessary to amend the written statement by incorporating the essential facts. So therefore, in prevailing set of situation it is just and necessary to amend the written statement. Hence prays to allow the application.

Objections came to be filed, wherein there is no documentary evidence to support the said averments and now, the case is posted for further cross-examination of P.W.1. So therefore, the plaintiffs have utterly fails to show that inspite of due diligence he could not incorporate the proposed pleadings. Therefore, prays to dismiss the application.

After going through the arguments on both sides and looking to the proposed amendment it can be seen that matter is set down for cross of P.W.2 and still the trial is not yet completed. So therefore, the proposed amendment does not take away the nature of the suit. Therefore, this court proceeds to pass the following:

ORDER

Application filed under Order VI Rule 17 of C.P.C. is hereby allowed.

The defendants are permitted to carryout the proposed amendment in the written statement and the said amendment to be carried out in the presence of Sheristadar of this court and furnish fresh amended written statement by 08.4.2025.

(Santhosh Srivastava)

Addl. Senior Civil Judge and A.C.J.M.,
Udupi.