

Orders on I.A.VII filed by defendant no.2 & 3 u/O 6 Rule 17 of CPC R/w Sec.151 of CPC.

1. The present application is filed in the case is posted for cross of PW-1. The defendant no.2 and 3 have filed application under Order 6 Rule 17 R/w section 151 of CPC., praying to amend the written statement and additional written statement averments.

2. In the application, it is stated that after verifying the written statement, it was noticed by the the defendant no.2 and 3 that there are some typographical errors in his written statement and additional written statement as stated in the schedule of the petition. The said mistake bonafide one. The said fact are necessary for the adjudication of the case. That the proposed amendment will not change the nature of the case or introduce the new case. That no harm will caused to the plaintiff. Therefore, he prayed to allow the application. The defendants have sought to amend the contention that

the defendant no.2's **maternal** grandfather instead of **paternal** grandfather.

3.The plaintiff has filed objection to the said application and stated that the defendant is withdrawing the earlier admission by way of present application. Hence, he strongly prayed to reject the application.

4. Now the point for consideration is whether the application filed by the defendant no.2 & 3 deserves to be allowed?.

5. My answer to the above point is in the **Affirmative** for the reasons given below:-

REASONS

6. The present suit filed by the plaintiff against the defendant no.1 who is her mother. The present suit is for the relief of partition and separate possession. The plaintiff has taken the contention that the suit schedule properties are the joint family properties. That the defendant no.2-4 names are found in the RTC. Hence, they are made as party. Therefore, the plaintiff sought for the relief of partition.

The defendant no.2 has taken the contention that the the father of the plaintiff no.1 executed gift deed in the name of defendant no.2. Therefore, the defendant no.2 is the owner of the suit schedule property.

7. Now the defendants want to amend the written statement and aver that the suit schedule property belonged Kampalappa who is the maternal grandfather and not the paternal grandfather.

8. It is pertinent to note that the amendment to plaint can be carried out at any stage if it is necessary for the determination of real question in controversy between the parties. The proviso to Order 6 Rule 17 of CPC states that such amendment can be allowed after trial has commenced unless the court comes to conclusion that in spite of due diligence, such amendment could not be raised.

9. In the present application, it has to be seen that the trial has commenced. The plaintiff states that the defendant no.2-4 are not related to their family. When that is the situation, the proposed amendment will no

way cause any prejudice to them as it is immaterial whether the defendant no.2-4 allege that it is the maternal/paternal grandfather. The burden to prove the proposed contention is on the plaintiff. therefore, in order to provide full opportunity and to avoid multiplicity of the proceedings, the I.A needs to be allowed. In view of the same, the I.A.No.VII filed by the defendant no.2 & 3 is hereby allowed on cost of Rs.500/-. The defendant no.2 and 3 is permitted to carryout the amendment and file amended written statement.

For amendment and A/WS.

Call on 30.01.2026

**Civil Judge and JMFC,
Kudligi**