

**ITINERARY SITTING AT SENIOR CIVIL JUDGE
HUVINAHADAGALI**

Dated this the 25th day of October 2025

PRESENT

MADHUSUDHANA D.K.

Itinerary Senior Civil Judge
Huvinahadagali

OS. No.29/2023

**PLAINTIFFS: *Smt. Vimalakshi
and Another***

V/s

**DEFENDANTS: *Sri. Siddanagouda
and Others***

ORDERS ON IA NO.4

The Plaintiffs have filed the above IA No.4 dated 01.03.2025 under Order 6, Rule 17 read with Section 151 of CPC by seeking Amendment of the Plaint to delete the words *Items No.1 to 14 in Para No.13 of the Plaint* and to insert the words *Items No.1 to 9* and the Plaintiffs also seek deletion of the Items No.8 to 10 of the Suit Schedule Properties and *to include the Sy.No.692/A and the Sy.No.694/2 as the Item No.8 and Item No.9* in the Plaint.

2. In support of the IA No.4, the Plaintiff No.1 has filed her Affidavit by deposing on oath for herself and also for the Plaintiff No.2. In brief, the Plaintiff No.1 has contended that, the Plaintiffs have filed the above Suit for Partition and Separate Possession against the Defendants. After appearance of the Defendant No.5 in the Suit, she has contended that, the Items No.8 to 10 are not the Ancestral Properties for the Plaintiffs and Defendants

and she has also contended that, the Sy. No.692/A and the Sy.No.694/2 which are standing in the name of the Defendant No.4 are not included in the Suit. The Items No.8 to 10 of the Properties show that, in the RTC Extracts, the Column No.9 and 12 of the said Properties are standing in the name of relatives of the Plaintiffs father and for these reasons, the Plaintiffs seek Amendment of their Plaint.

3. The Defendant No.1 has filed his Objections to the IA No.4 and he has denied the averments made by the Plaintiffs as false. The Defendant No.1 has contended that, for the past 20 Years the Plaintiffs are residing in the Houses of their respective husbands and they are not having any knowledge about the Transactions of the Properties and they are not in Possession of the Suit Schedule Properties. Therefore, the Defendant No.1 has prayed for dismissal of the IA No.4.

4. The Defendant No.1 has filed Memo and Copies of the Sale Deeds, Mutation Registers and RTC Extracts of Sy.No.136.

5. I have heard the arguments of Rival Parties and perused the Material placed on Record.

6. The following Points are arisen for My consideration:

POINTS

1) Whether the Plaintiffs show that, in spite of their due diligence they could not have raised the Proposed Amendment before commencement of evidence?

2) What Order?

7. Now, My answers to the above Points are as follows:

ANSWERS

POINT NO.1: In the Negative

**POINT NO.2: As per the final Order,
for the following:**

REASONS

8. **POINT NO.1:** I have already narrated the facts leading up to filing of the above IA No.4 and therefore, to avoid repetition, the same is not reiterated here.

9. The above Suit for Partition and Separate Possession was filed on 29.03.2023 and the Issues were framed on 29.11.2024 and the PW1 was already examined earlier to filing of the Written Statement and framing of the Issues. In the Affidavit of the PW1 filed before the Court, she has deposed about the Items No.1 to 10 are the Ancestral Properties. The Plaintiffs have contended that, after appearance of the Defendant No.5, the said Defendant No.5 has contended that, the Items No.8 to 10 are not the Ancestral Properties but, they are her Self Acquired Properties for having acquired them under Registered Gift Deed in the Year 1976. The Plaintiffs have pleaded that, *including the Defendant No.5, all the Defendants are the members of the Hindu Joint Family* and they have filed the Suit for Partition by seeking Share in all the Properties. In support of Plaintiffs contention about including of the Sy.No.692/A and Sy. No.694/2 as Joint Family Properties, the Plaintiffs have not submitted any Documents to show them also as Ancestral and Joint Family Properties. Therefore, the allowing of the IA No.4 and permitting the Plaintiffs to Amend the Plaint as claimed by them is against to the Affidavit Evidence of the PW1 and I have

already framed the Issues by placing the burden on the Defendant No.5 to prove her Written Statement Contentions. Therefore, by considering the silence of the Plaintiffs for over a Period of 2 Years in seeking Amendment from the date of filing of the Suit on 29.03.2023 till filing their IA No.4 on 01.03.2025, I am of the considered opinion that, the Plaintiffs have failed to show any due diligence in seeking the Amendment. Therefore, ***the Point No.1 is answered in the Negative.***

10. **POINT NO. 2:** For the above discussion, I proceed to pass the following:

ORDER

***The IA No.4 of
the Plaintiffs is
Rejected.***

***Posted for cross-
examination of the
PW1 on 22.11.2025***

MADHUSUDHANA D K
Itinerary Senior Civil Judge
Huvinahadagali