

**ITINERARY SITTING AT SENIOR CIVIL JUDGE
HUVINAHADAGALI**

Dated this the 6th day of December 2025

PRESENT

MADHUSUDHANA D.K.
Itinerary Senior Civil Judge
Huvinahadagali

OS. No. 36/2019

***Plaintiffs:Sri. Huchchi Kenchappa
and Others***

V/s

Defendants:Smt. Yellavva and Others

**ORDERS ON IA NO.26 FILED BY THE DEFENDANT
NO.2(a) UNDER ORDER 6, RULE 17 OF CPC**

The Defendant No.2(a) Smt. Sudha has filed this IA No.26 dated 17.01.2025 by seeking Amendment of the Written Statement as per the Schedule of the said IA No.26. In brief, the Defendant No.2 (a) has prayed for including the Pleadings to the effect that, *the Plaintiffs have no right to claim Partition in respect of the Suit Schedule Properties and earlier Partition was already taken place on 25.05.1958 among the sons of Huchchi Ramappa, Adopted son of Huchchi Kariyallappa, Neelappa, Dodda Guddappa and Sanna Guddappa and the said Persons have already obtained their respective Shares. In the Year 1995, another Partition was taken place between the sharers and in the Year 2019, a Third Partition was taken place and a Registered Partition was also taken place.* The Defendant No.2(a) has claimed to insert the

above Pleadings in Paragraph No. 9 as Paragraph No.9(a) in the Written Statement.

3. In support of the IA No.26, the Applicant has filed her Affidavit by deposing on oath. She has contended that, *she has already filed Additional Written Statement but, at the time of filing the same, due to oversight, she could not include the Proposed Pleadings and therefore, she seeks to include them by way of Amendment.*

4. The Plaintiffs have filed Objections to the IA No.26. The Plaintiffs have contended that, *in the Written Statement filed on 29.02.2020, the Defendants have taken specific contentions in Paragraph No.12(a) about the Partition dated 21.12.1995 and after the death of Defendant No.2, the Defendant No.2(a) has also filed her Written Statement on 14.11.2023 and she had taken specific contentions in her Written Statement Paragraph No.3 about the Partition dated 21.12.1996. Therefore, the IA No.26 is filed only for causing further delay in the Suit Proceedings and the same is liable to be Rejected.*

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

6. The following Points are arisen for My consideration:

POINTS

1) Whether the Defendant No.2(a) shows that, in spite of her due diligence she could not have raised the Proposed Amendment after commencement of the Trial?

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 circumstances leading up to filing of the IA No.26 in the beginning of this Order and therefore, the same is not reiterated here.

9. The Defendant No.2(a) has come on the Record on the death of the Defendant No.2 Sri. Huchchi Mahalingappa as his Legal Representative in the Suit. The Record shows that, *during his lifetime, the Defendant No.2 had already filed his Written Statement and he had taken a specific contention about a Partition dated 21.12.1995.* The Defendant No.2(a) is only the Legal Representative of the Defendant No.2 and she has to defend the Suit as per the contentions in the Written Statement filed by the Original Defendant No.2. But, the Record also shows that, *after her appearance in the Suit, the Defendant No.2(a) has also filed her Additional Written Statement on 04.11.2023 and she had contended about a Registered Partition dated 07.11.2015 and Partition in the Year 1995.* By way of Amendment, the Defendant No.2(a) seeks to include Pleadings about Partitions in the Year 1958, in the Year 1995, in the Year 2019 and another Registered Partition. The said alleged Partitions were taken place much earlier in time from the Year of filing of the Suit in the Year 2019 and they should not be forgotten by the Defendant No.2(a) at the time of filing of her Additional Written Statement in the Year 2023. Therefore, it gives the impression that,

the Defendant No.2 (a) is trying to cause unnecessary delay in the disposal of the Suit pending from the Year 2019. The Defendant No.2 (a) did not show any due diligence to allow her IA No.26 at the time of recording of Evidence and 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.26 of the Defendant No.2(a) is dismissed by imposing Costs of ₹ 3,000/- for causing unnecessary delay in the Suit.

Case is Posted for cross-examination of the PW1 on 03.01.2026.

Sd/-

MADHUSUDHANA D K
Itinerary Senior Civil Judge
Huvinahadagali