

DATED: 23.09.2024

O.S.No.145/2021

ORDER ON I.A.No.V

The present application is filed by the applicant/plaintiff U/O VI Rule 17 R/w Sec.151 of CPC, with a prayer to amend the plaint as mentioned in the application.

2. In the Affidavit annexed to this application, the plaintiff has stated that, she has filed suit against the defendants for partition and permanent injunction in respect of the suit schedule properties. It is stated that, due to oversight some of the suit properties are not shown in the plaint. If the said properties are not inserted the suit is incomplete. It is contended that, the proposed amendment will not change the nature of the suit. If the application is allowed no loss or prejudice would be caused to the defendants. If not allowed, the plaintiff will be put to irreparable loss and hardship. Hence, among these and other grounds sought to allow the application and grant the relief as prayed for.

3. The defendant No.1 has filed objections to the present application. Wherein the defendant No.1 has contended that, the contents of the affidavit are false and vexatious. It is stated that, the defendant No.1 being a teacher has purchased the properties, which the plaintiff wants to include in this suit are self-acquired properties of defendant No.1, which are purchased from the own earnings of the defendant No.1. Hence, the plaintiff has suppressed the material facts before the Court and the plaintiff should not permit to insert the said properties as sought in the application as they are self-acquired properties of defendant No.1. On these and among other grounds, the defendant No.1 prays to dismiss the application

4. On perusal of entire records, the plaintiffs have to prove the case as prayed. Therefore, the amendment of plaint does not change the nature of the suit in any manner and it is necessary for the purpose of determining the real questions in controversy between the parties.

Moreover, there is an additional issue No.2 in this regard and plaintiff is complying the said issue of non-inclusion of all the joint family properties. Further, the defendant No.2 in his written statement contended that, the suit is bad for non-inclusion of all the joint family properties.

5. As submitted by the learned counsel for the plaintiff that, at the time of filing of the suit, she was not having detailed information with regard to the properties, which now she want to add in this suit. Hence, she has not inserted the said properties at the earlier point of time. The contention of the plaintiff is that, the adding of the properties will assist the Court in better adjudication of the matter. Hence, considering the contention of the plaintiff, if the application is allowed, the defendants have every opportunity to cross examine the plaintiff on the new contents of the plaint. Hence, the prayer sought by the applicant/plaintiff is bonafide one. Hence, I deem it proper to pass the following;

ORDER

The application filed by the applicant/plaintiff under Order VI Rule 17 R/w Sec. 151 of C.P.C is hereby allowed on costs of Rs.1,000/-.

The plaintiff is permitted to amend the plaint, as prayed in the application.

A.S.C.J. & JMFC.
B.Bagewadi

For furnishing amended plaint.
By:

A.S.C.J. & JMFC.
B.Bagewadi