

-: ORDER ON I.A. No.IV:-

The present petition is filed by the plaintiff U/o 6 Rule 17 of Code of Civil Procedure seeking permission to amend the plaint by way of adding para no.4(A) after para no.4 and adding prayer para no.9(A)(A) after prayer para no.9A.

2. In support of the above application the plaintiff filed affidavit and stated that, the said amendment is allowed will not change the nature of the suit nor it will not create any cause of action. If amendment is allowed no loss or injury will cause to the defendants. On contrary if the amendment is not allowed, she will be put to heavy loss. Hence, the plaintiff prayed for allow the IA-IV.

3. The learned counsel for the defendants has not filed objection to IA No.IV.

4. Heard both sides on IA no.IV.

5. The following points that arise for my consideration are as under:-

1. Whether the plaintiff proves sufficient grounds to allow the I.A. No.IV filed Under Order 6 Rule 17 of Code of Civil Procedure, 1908?

2. What order ?

6. My finding on the above point No.1 is in affirmative and point NO.2 is as per final order:

:- R E A S O N S :-

7. **Point No.1:-** This court perused the contents of the petition filed by the plaintiff U/o 6 Rule 17 of CPC of seeking amendment of the plaint. The plaintiff has filed the petition stating that after death of her husband, she filed wardy to get enter her name to land Bl.No.457/2 which was standing in her husband's name. But, the defendant no.4 objected the same and got entered her name colluding with revenue authority and immediately sold the suit land in favour of defendant no.5 by way of registered sale deed. The said partition once again the partition in land Bl.No.457 to be divided and the 1/4th share of the plaintiff be allotted along with land Bl.No.233 of Tamba village. The alleged sale effected by the defendant no.4 in favour of the defendant no.5 is not binding upon the plaintiff's share.

8. It is important to note that the plaintiff intends to add para no.4A and 9AA stating that the defendant no.4 got her name entered in the record of rights in collusion with the revenue authorities and sold the suit land in favour of defendant no.5. Said proposed amendment will not change the nature of the suit nor the cause of action. Even if the plaintiff is permitted to amend the plaint no harm or loss would be caused to the defendants.

9. It is well settled principle of law that plaint can be amended by the parties to the suit of the events subsequently taking place during pendency of the suit. It is not the case of the plaintiff that there was a delay and also inspite of knowing of a particular fact, the plaintiff has not pleaded and after long gap moved an application seeking relief of amendment of plaint. But, as discussed above in the present case fact of encroachment as per the case of the plaintiff, as contended in the present application, taken place during pendency of the suit.

10. This court opined that if the plaintiff is permitted to amend the plaint cause of action would not be changed nor nature of the suit would be changed. It is well settled principle of law that the court should be liberal while permitting a party to amend the plaint. Therefore, this court opined that plaintiff has made out sufficient grounds to allow the present petition. Hence, Point No.1 is answered in affirmative.

11. **Point No.2 :-** For the discussions made above following

: ORDER :

The I.A no.IV filed by the plaintiff
U/o 6 Rule 17 of Code of Civil Procedure,

1908, dated: 22-08-2017 is hereby allowed.

The plaintiff is permitted to amendment and amended the plaint as sought for in I.A.No.IV.

For amendment of the plaint.

Call on:

(Typed to my dictation by steno directly on computer on 23rd day of August 2017)

((Lakshmikanth Janakiram Miskin))
Civil Judge & JMFC. Indi.