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**IN THE COURT OF ADDL. CIVIL JUDGE AND JMFC,
AT: YADGIRI.**

PRESENT:

**Sri. Rahul RAo,
B.A., L.L.B.
Addl. Civil Judge & JMFC, Yadgiri.**

DATED THIS THE 12TH DAY OF DECEMBER 2025.

O.S.NO. 28/2017

1. Chandrashekar S/o Basanna and another.

PLAINTIFFS.

Versus

1. Chanappa S/o Basanna and others.

DEFENDANTS

PARTIES TO I.A.No.IX

1. Chanappa S/o Basanna

DEFENDANT No.1

VERSUS

1. Chandrashekar S/o Basanna and another

Plaintiff.

ORDERS ON I.A. No.IX

The applicant/defendant No.1 filed IA No.IX under order 6
Rule 17 of CPC for seeking permission to add house property

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and counter claim suit property valuation in written statement counter claim.

2. The IA No. IX filed by defendant No.1 accompanying affidavit and stated that, the house property bearing No. 5-366/2 consisting of shops measuring 40 X 60 and suit property value at 1 crore is not added in the due to mistake in the written statement. The same mistake is not intentional but accidental and due to typographical mistake. Further if the prayer is allowed no prejudice will caused to the other side and it will not change the nature of the suit. If the application is not allowed defendant will be put hardship and it lead to multiplicity of litigation. Hence, prays to allow this application.

3. The counsel for plaintiff filed objection by denying the averments of the said application and submits that, defendant No.1 has filed written statement on 16-12-2017 and both side evidence was closed and at the stage of argument defendant No.1 filed this application, application is not maintainable in

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eyes of law. Further it is contented that, counter claim made by the defendant No.1 in respect of house is not concerned to defendant No.1. Further valuation certificate not obtained from concerned authority and without obtaining the market value certificate from the concerned authority, defendant No.1 mentioned counter claim suit property is Rs.1 crore. Defendant No. 1 is trying to delay the proceeding by filing false application. If the application is allowed in amendment written statement then plaintiff we will be put to heavy and irreparable and nature of the suit will be change, if the application filed by defendant No.1 is to be rejected, no harm or loss will be caused to the defendant No.1. Further only to drag on the proceeding he has filed this application, Hence prays to reject this application.

4. Heard on IA No. IX from both side.

5. The points that arise for consideration are;

1. Whether the amendment sought by the defendant No.1 is necessary to

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adjudicate the matter in controversy
between the parties ?

2. What order?

6. Perused pleadings and materials available on record, the
aforementioned points answered as under :

Point No.1 : In the **Negative.**

Point No.2 : As per the final order,
for the following;

REASONS

7. Point No.1 : This is the suit for the relief of partition and separation possession filed by plaintiffs against the defendants. When the matter is posted for argument, defendant No.1 has filed this application to add house property detail and valuation of house property in written statement counter claim. Further due to typographical mistake same was not added. Plaintiff filed objection to IA No. 9 denied all the averments, and sated that, defendant only to delay the proceeding has filed this false application. Hence, prays to reject the application.

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8. The learned counsel for defendant No.1 submits that, Further due to typographical mistake written statement counter claim para No. 2 and 3 said proposed amendment not added. If application allowed, not change the nature of suit. The defendant No.1 not a adding new things in the suit the aforesaid aspects are very much necessary for adjudication of the dispute in controversy between the parties, it is just and necessary to allow the said application in the interest of justice and equity.

9. The learned counsel for the plaintiff submits that, there is no sufficient reasons in the said application filed by the plaintiff to allow the same. Proposed amendment will be changed the nature of suit and cause of action. If the application is allowed the plaintiff will be caused great hardship and injustice. Hence, he prays to dismiss the application.

10. On perusal of records of file, it reveals that this court has framed issue regarding non joinder of other suit properties.

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Defendant No.1 has claimed that, counter claim property is joint family property. Whether counter claim property it is joint family property or not? it can be ascertained while answering to issue No.4. Further defendant No.1 has claimed that, counter claim property house No. 5-5-366/2 value is more than 1 crore. At this juncture this would like to rely on **Order 8 rule 6A of CPC.**

6A. Counter-claim by defendant.—(1) A defendant in a suit may, in addition to his right of pleading a set-off under rule 6, set up, by way of counter-claim against the claim of the plaintiff, any right or claim in respect of a cause of action accruing to the defendant against the plaintiff either before or after the filing of the suit but before the defendant has delivered his defence or before the time limited for delivering his defence has expired, whether such counter-claim is in the nature of a claim for damages or not:

Provided that such counter-claim shall not exceed the pecuniary limits of the jurisdiction of the court.

11. On perusal of provision counter claim should not be exceed pecuniary jurisdiction of this court. In the present case also defendant No.1 has stated that, counter claim

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property value is more than 1 crore, where has pecuniary jurisdiction this court is 5 lakhs only. Further defendant No.1 has not produced any documents regarding valuation of counter claim property. Therefore, defendant No.1 has not made out any ground to allow this petition.

12. It is important point to be noted that, defendant No.1 has filed written statement on 16-12-2017 almost 8 years defendant No.1 has not taken any action to add value of the counter claim property. Further he has not stated about due diligence taken but due to mistake he has not stated proposed amendment. Further as per section 21 of CPC No objection as to the competence of a Court with reference to the pecuniary limits of its jurisdiction shall be raised after issues are settled, at or before such settlement, and unless there has been a consequent failure of justice. Therefore issue regarding pecuniary jurisdiction has to be raised before issues are settled, at or before. This case is posted for argument, defendant No.1 has not made any efforts to shows

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that, this court has no pecuniary jurisdiction to try this suit. Hence, Therefore, defendant No.1 has not made out any ground to allow this petition, the present application filed by defendant No.1 is deserved to be rejected. Hence, **point No.1 is answered in the Negative.**

13. Point No.2 : For the reasons discussed above, this court proceed to pass the following;

ORDER

IA No.IX filed by the defendant No.1
U/o VI Rule 17 of CPC, is hereby
rejected.

**Addl.Civil Judge & JMFC
Yadgiri.**