

ORDER BELOW EXH. 52 IN R.C.S. No. 63/2013
(Prem & Ors. Vs. Subhash & Ors.)

1. The present application is filed by the plaintiffs under O. 6 R. 17 of the Code of Civil Procedure.

2. By filing present application it is submitted by the plaintiffs that they have filed the present suit for partition and separate possession. At the time of presentation of the plaint the pleading regarding the minority of plaintiff no. 1 is remained to be plead. The plaintiff no. 2 is the natural mother / guardian of plaintiff no. 1. She has no adverse interest against the plaintiff no. 1 and his property. Therefore, it is necessary to amend the plaint in respect of pleading as to minority of plaintiff no. 1. If application is allowed it will not change the nature of the suit or not cause any prejudice to the defendants.

3. The defendant nos. 1, 2 and 4 filed their say and submitted that the amendment which is sought by the plaintiff is illegal and against the provisions of law, therefore, the application may be rejected. The defendant no. 7 did not file her say.

4. Heard the ld. advocate for the plaintiffs & defendant nos. 1, 2 & 4.

5. After perusal of the application it is seen that the plaintiff no. 2 by filing present application wants to add para no. 1/a in respect of contents as to the minority of the plaintiff no. 1. After perusal of plaint more particularly the names of parties it shows that the plaintiff no. 1 shown to be minor and it is specifically mentioned that the plaintiff no. 2 is the real mother of plaintiff no. 1 and the plaintiff no. 1 is being minor under the guardianship of his mother. It means at the time of filing of the suit the plaintiffs disclosed the minority of plaintiff

(2)

no. 1 but the contents regarding the same are not mentioned in the plaint through oversight. Therefore, the amendment which is sought can be permitted, it will not change the nature of the suit or cause any prejudice to the defendants. Hence, I pass the following order.

ORDER

1. Application is allowed.
2. Plaintiffs to carry out necessary amendment and furnish the copy of amended plaint till next date.
3. No order as to costs.

Dated 23/4/2019

**(O.M. Mali)
Civil Judge J.D. Renapur.**