

KAMS020002412014



**IN THE COURT OF VII ADDL. SENIOR CIVIL JUDGE AND JMFC
AT MYSURU**

**Presided Over by Manjula.D
B.Sc.LL.M**

**VII Addl. Senior Civil Judge and JMFC.,
Mysuru.**

Dated: 8th Day of October 2025

OS/945/2014

Plaintiffs : Lakshmi @ Maramma

V/s
Defendants : Siddamma and others

PARTIES IN IA NO. XIV

Applicant/Defendant No. 1 & 3 : Siddamma and another

V/s

Opponent/Plaintiff : Lakshmi @ Maramma

**ORDERS ON APPLICATION FILED UNDER ORDER VI
RULE 17 OF CPC**

This is an application filed by the applicant/ defendant No. 1 & 3 have sought to amend the written statement as prayed for. To delete paragraphs as stated in the IA and to insert proposed paras

with respect to joint possession of the suit schedule property of the joint family properties mentioned in the application.

2. In the annexed affidavit, the applicant/ defendant No. 1 has sworn in and stated that, defendant no.1 is her sister, she has filed this suit for partition. At the time of filing of the written statement they had not taken up their claim for partition. Which was required to be raised as they have not relinquished right in the suit schedule properties. They are innocent and uneducated people. They did not know about the case. The present advocate who engaged has explained the contention of the written statement. Hence, in this regard they have sought for the proposed amendment. Hence, prayed to allow the application.

3. The statement of objections filed by the defendant no.5 and submitted that he has taken up contention the application filed by the applicant is not at all maintainable as the plaintiff evidence is already closed. At this belated stage, the defendants have come up with this case etc., The defendant no.1 & 3 have also filed objection and submitted that now the defendants are trying to cure

the lapse in the written statement. Hence, the present amendment is totally contrary of the earlier written statement. These defendants have colluded with each other as the plaintiff in order to wrongful gain. They are making such frivolous application etc., Hence, prayed to dismiss the application.

4. Heard both side arguments and perused the materials available on record.

5. The following points arise for my consideration.

1. Whether the application deserves to be allowed?

2. What order?

6. Findings of this court on the above points are:

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

Point No.2: as per final order for the following:

REASON

7. **Point No.1:** The defendants have sought for. Heard both sides counsel perused the entire materials placed on record. Initially, the written statement. Was about the dismissal of the suit. However,

at this stage now the defendants are claiming their share in the suit schedule property through amendment. They have not filed counter claim at the initial stage with the new amendment. They are seeking for the counter claim to allot their legitimate share over the suit schedule property.

8. On perusal of the entire materials placed on record and proposed amendment is with respect to the rights of the defendants in any suit for partition, the rights exists to any of the parties to the suit. They are entitle for the same. But, only the required thing is that they have to prove their legitimate right over the suit schedule property. At this stage the defendants have sought for amendment as well as right by way of amendment. If the application is allowed it would not change the cause of action and this application is very much necessary to decide the matter on its merits. This will not cause any damage to the plaintiffs. If the defendant claimed counter claim then the burden lies on the defendants to prove the case as well as to pay the court fee in respect of the suit schedule property to the extent of the legitimate share of these defendants. Hence, this

application is very much necessary and it would not cause to the damage to other side. Hence, the IA is allowed. **Accordingly, the point No.1 is answered in the Affirmative.**

9. **Point No.2** :-In view of the reasons assigned above, I proceed to pass the following;

ORDER

The IA No.XIV filed by the applicant/ defendant No. 1 and 3 U/O 6 Rule 17 of CPC is hereby allowed.

For amendment and amended written statement.

(Dictated to the Stenographer directly on computer and computerized by her, corrected and then pronounced by me in the open court this the 8th day of October 2025.)

Sd/-
(MANJULA .D)
VII Addl.Sr.Civil Judge & JMFC,
Mysuru