

KATK510036732023



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OS No.398/2023

IN THE COURT OF ADDL. CIVIL JUDGE AND JMFC.,
KUNIGAL
Present:

Sri. Manjunath Shivapooji, B.A., L.L.B.,

Addl Civil Judge & JMFC., Kunigal.

Dated: 7th day of November, 2024

O.S.NO. 398/2023

Plaintiffs : Prabhavathi S.N and others
V/s

Defendants : S.M.Nanjappa and another
I.A.

Applicant : Vanajakshamma S.N and others
V/s

Opponent : S.M.Nanjappa and another

ORDERS ON APPLICATION FILED BY THE APPLICANT
UNDER ORDER 6 RULE 17 OF CPC

On perusal of plaint, it appears that plaintiffs have filed this suit for the relief of partition and separate possession against the defendants.



2. The applicant filed IA U/O 6 Rule 17 of CPC to amend the plaint. Further, the applicant contended that, the proposed amendment is necessary to adjudicate the matter in question, if the application is allowed, no harm would be caused to defendants. Hence, prayed to allow this application.

3. On the other hand, defendants have filed objection by denying the averments of application. The defendants have contended the proposed amendment not only changes the nature of case but also identity of suit property. The nature of suit itself is diverted and changed. The intention behind raising the proposed amendment by the plaintiff not only protracts the proceedings. In view of this circumstance the proposed application for amendment of plaint could not stand with merit and hence, is liable to be dismissed. Hence, prayed to dismiss the application.

4. Heard arguments.

5. On basis of the application and documents on record, the following points that arise for the determination of this court.



1. Whether the application deserves to be allowed?

2. What order?

6. My findings on the above points are as under:

Point No.1 : In the *Affirmative*

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

REASONS

7. Point No.1 : The plaintiffs have filed the present suit for the reliefs of partition and separate possession against the defendants.

8. This court has perused the documents produced by plaintiffs and on perusal of the amendment sought by applicant it clears that, it will change the nature of suit or cause of action but, it will not introduced any new thing and if the application is allowed, injustice will not be caused to other side.

9. Therefore, this court is of the opinion that to decide the matter fully and finally the prayer sought under IA U/O 6 Rule 17



CPC is necessary. In the absence of proposed amendment suit can be decided effectually. If the application is allowed, it will not protract the proceedings. Hence, to avoid the multiplicity of the proceedings, this court inclined to allow the IA U/O 6 Rule 17 CPC in the interest of justice and equity. Accordingly, ***Point No.1*** is answered in the ***Affirmative***.

10. Point No.2: For the above discussed reasons, this court proceeds to pass the following:

ORDER

IA filed U/O 6 R 17 of CPC is hereby
allowed.

The plaintiffs are permitted to amend
the plaint. To carried out amendment and
to furnish amended plaint by 24.01.2025.

Sd/-
[Shri.Manjunath Shivapooji]
Addl Civil Judge and JMFC,
Kunigal.