

In the court of Civil Judge (Sr. Division)-VI, Patna City

T.P.S. 29/2017

CIS 14/2017

ORDER

13-08-2024

Plaintiff and defendants are in attendance and they are represented through their learned counsel.

Today the record is put for an order on a petition dt 22-09-2023 on behalf of plaintiff U/o VI Rule 17 read with S. 151 of the CPC. Rejoinder dt. 31-01-2024 was filed on behalf of defendants in reply to the above petition.

The Amendment petition filed on behalf of plaintiff U/o VI R 17 read with S. 151 of the CPC to amend in the plaint as proposed in the Amendment petition dt. 22-09-2023

Heard both the sides and perused the case record. From the perusal of case record it appears that the plaintiff has filed this suit for getting the decree of partition to the extent of his share out of the lot no. (i) to (v) of the schedule-I property of the plaintiff against the defendant. The plaintiff has argued that during the course of hearing of the suit on 24-08-2023, defendant 1 to 4 had filed photocopy of certain documents with a list of documents from which the alleged sale deed dt. 22-07-1961 executed by plaintiff in favour of Om Prakash and Jai Prakash and alleged sale deed dt. 21-06-1995 executed by Vivekanand Sharma (plaintiff) in favour of Moti Lal Mahto. It is the contention of petitioner/plaintiff that above stated sale deed is forged, fabricated and illegal one and since it has casted a cloud upon the exclusive right, title and interest of the plaintiff with respect to suit property and so the necessity of amendment arose. The plaintiff

13-08-2024

also contended that he had knowledge of the above stated sale deed. The defendant in their rejoinder have argued that the plaintiff was fully aware of the execution of sale deed but the plaintiff deliberately suppressed these facts. The defendant also contended that the amendment sought by the plaintiff changes the nature of the suit.

This court is of view that the plaintiff has filed partition suit against the defendants. The trial in the suit has already commenced and issue has been framed. The contention of plaintiff is that he was not aware of the sale deeds cannot be accepted as he has himself executed the sale deeds. Now, at this stage the plaintiff wants to amend the relief portion which is altogether different from the nature of the suit brought by him. The plaintiff wants to bring proposed amendments because the defendant has brought certain facts through documents (sale deeds executed by him) which casted doubt upon the exclusive right, title and interest of plaintiff. But it is to be noted that the plaintiff has filed partition suit and not the title suit. At this stage the plaintiff cannot be allowed to change the nature of suit. Lastly, the plaintiff has not brought any material on record to show that inspite of due diligence he could not have raised the matter before the commencement of the trial.

Hence, after considering the above facts and circumstances, this court in the interest of justice deems it proper to reject the petition dt. 22-09-2023, U/o VI R 17 read with S. 151 of the CPC. Put on 24.9.24.... for further proceeding.


Civil Judge (Sr. Division)-VI
Patna City