

01.06.2019

File taken up today on application, filed on 06.05.2019, of the plaintiff under section 151, CPC.

Present: Plaintiff with Ld. Counsel Israr Ahmad.

Ld. Counsel Sh. M. S. Rawat for both the defendants.

By way of this application, the plaintiff seeks amendment of the issues.

Vide order dt. 27.02.2019, Ld. Predecessor of this Court had framed the following issues:

1. *Whether the suit of the plaintiff is not maintainable because Will dt. 11.06.1998 relied upon by the plaintiff is a forged Will? OPD*
2. *Whether the plaintiff is entitled for a decree of possession in respect of the suit property? OPP*
3. *Whether the plaintiff is entitled for a decree of injunction with respect to the suit property, as prayed? OPP*
4. *Relief.*

Plaintiff now submits that the date of the Will is actually 29.03.1996 and not 11.06.1998. He thus seeks a correction in issue no. 1. In addition to this, he states that no issue with regard to *mesne* profits/damages has been framed, although, there was a prayer to this effect in the plaint. This application is vehemently opposed by defendants' counsel. Heard. Perused.

In the plaint, the date of the Will being propounded by the plaintiff

is stated to be 29.03.1996. Photocopy of the Will which is on record also shows the date of the Will to be 29.03.1996. In view thereof, issue no. 1 is required to be amended in order to correct the date of the Will being propounded by the plaintiff.

Next, the plaintiff in the plaint has also claimed *mesne* profits/damages. However, there is no issue in this regard framed. An issue in this regard is required to be framed.

The issues are hereby recast. The same are as under.

- 1. Whether the suit of the plaintiff is not maintainable because Will dt. 29.03.1996 relied upon by the plaintiff is a forged Will? OPD***
- 2. Whether the plaintiff is entitled for a decree of possession in respect of the suit property? OPP***
- 3. Whether the plaintiff is entitled for a decree of injunction with respect to the suit property, as prayed? OPP***
- 4. Whether the plaintiff is entitled to mesne profits/damages, and if so, at what rate and for what period? OPP***
- 5. Relief.***

Aforesaid application of the plaintiff stands disposed of. List on date already fixed which is 08.07.2019 for PE.

(MURARI PRASAD SINGH)
Addl. District Judge-03(East)
Karkardooma Courts-01.06.2019