

15.7.2017

Present:- None for the plaintiff
Proxy for defendant No. 1 and 2
Defendants No. 3 and 4 are ex-parte
Shri H . Kaushal – Ld. Counsel for the defendant No. 5

Vide separate order passed and pronounced today, the application filed by the plaintiff under Order 6 Rule 17 CPC for amendment of plaint has been allowed. Amended suit is already on record.

Put up for filing of WS to the amended plaint on **10.10.2017**. Advance copy of the WS be supplied to the plaintiff, who may accordingly file replication if any on the next date.

(Sanjay Sharma-I)
Addl. District Judge-02(East)
Karkardooma Courts- 15.7.2017

**IN THE COURT OF SHRI SANJAY SHARMA-I
ADDL. DISTRICT JUDGE - 02 (EAST DISTRICT)
KARKARDOOMA COURTS : DELHI**

CS No. 1443/2016

Smt. Rekha @ Rakhi

..... Plaintiff

Versus

Shri Khushal & ors

..... Defendants

ORDER

This order shall dispose of an application filed by the plaintiff under Order 6 Rule 17 CPC for amendment of plaint. The said application has been contested only by Defendant No. 5 while the other defendants have given their no objection to the same.

2. I have heard Shri Manoj Kumar Panchal – Ld. Counsel for the plaintiff and Shri H . Kaushal – Ld. Counsel for the defendant No. 5 on the said application and have perused the records.

3. The plaintiff has filed the suit seeking permanent and mandatory injunction, possession and declaration and partition against his brothers and sisters. Subsequently, after filing of written statement, he came to know that his father and that of defendants No. 1, 3 and 4 was alive and was also entitled to his share in the suit property and as such, an application under Order 1 rule 10 CPC was moved for impleading him i.e. father of the parties, as defendant No. 6, in the present suit. The said application was allowed vide order dt. 09.5.2016.

4. Thereafter, the present application was filed on 13.10.2014

for amending the plaint. In my opinion , this application is *sine qua non* after the application under Order 1 Rule 10 CPC was allowed, as per the provisions of Order 1 Rule 10 (2)(4) CPC. The only objection which has been raised by Defendant No. 5 is that the plaintiff has made new change in Clause B of the prayer by seeking relief against him which was not there in the original suit.

5. A perusal of the record shows that this objection has been wrongly taken as the relief has already been claimed as against the said defendant in the original suit and there has been no substantial change in the prayer Clause, as agitated. The remaining amendments as sought in the application are necessary for the just and effective decision of the suit and after impleadment of defendant No. 6. The application is bonafide and is accordingly allowed. Amended suit has already been filed.

Application stands disposed of.

ANNOUNCED IN OPEN COURT
ON 15th day of July, 2017

(SANJAY SHARMA-I)
Addl. District Judge-02 (East)
Karkardooma Courts, Delhi.