

07.09.2022

Present: Shri Agredeep Goel, Ld. counsel for plaintiff.
Shri Amit Sharma, Ld. counsel for D-1.
None for other defendants.

Arguments on the application u/o 1 rule 10 & u/o 6 rule 17 r/w section 151 CPC heard. Copy has already been supplied to D-1.

Order on IA u/o 1 rule 10 & u/o 6 rule 17 r/w section 151 CPC.

It is submitted by Ld. counsel for plaintiff that defendant no. 2 Smt. Bittan has expired on 19.10.2021 intestate, leaving behind her legal heirs and all her legal heirs are already arrayed as plaintiffs and defendants in the present case and except the parties of the suit, no other legal heir of defendant no.2 is left. Hence, she should be deleted from the array of the parties. It is further submitted that plaintiffs have claimed 1/8th share in the suit property, but now after the death of defendant no.2 Smt. Bittan, the plaintiffs are entitled for 1/7th equal share in the suit property in place of 1/8th equal share. It is further submitted that due to aforesaid subsequent event of death of defendant no.2, the plaintiffs want to insert the para no. 16-A in addition of existing para no.16 in the plaint. It is further submitted that plaintiffs want to amend the prayer clause no. 1 to 4 of the suit by replace the word “1/8th equal share” with the word “1/7th equal share” due to the aforesaid subsequent changes/circumstances. It is further submitted that the said amendment are very necessary for just decision of the case and if the same are not allowed, the plaintiffs shall suffer irreparable loss and injury. Thus, it is prayed that present application be allowed.

Record perused. Considered. It is pertinent to mention that during the course of argument, Ld. counsel for defendant no.1 submits that he has no objection if the present application is allowed. Matter is at very initial stage and written statements on behalf of defendant are to be filed. Evidence is also yet to be recorded in the matter. Defendants have ample opportunity to cross examine the plaintiff during evidence with respect to present amendments in the plaint. No prejudice shall be caused to the defendants if the aforesaid amendments are allowed. The suit of the plaintiff is liable to be decreed or not, the same shall be proved after adducing the evidence and it is a matter of record. In view of the above as well as facts and circumstances of the present case, the present application is being disposed off with the following order:

ORDER

The present application u/o 6 rule 17 CPC stands allowed. Amended memo of parties alongwith amended plaint are taken on record. Defendants are at liberty to file amended written statement, if any.

Copy of amended memo of parties and amended plaint be supplied to the defendant.

Put up for filing the amended W.S. if any, replication, if any, admission & denial of document and framing of issues on 22.11.2022.

(Rajesh Kumar)
Additional District Judge-03
East/Karkardooma/Delhi
07.09.2022