

CS No. 9942/16

Pushpa Chuttani v. Amit Bhuttani & ors.

01.06.2019

Present: Sh. Vishal Khattar, Ld. Counsel for plaintiff.

Sh. D.K. Sharma, Ld. Counsel for defendant no. 1 to 3.

Today I have heard Ld. Counsel for parties on the application of plaintiff u/o 12 rule 6 CPC.

During the course of arguments certain issues have come before this court like as to whether defendant no. 5 was given in adoption as alleged by defendant no. 1 to 3 or whether the suit property of which the partition is sought is self acquired property or it was initially allotted to the grand mother of the father of parties under Pakistan Refugee Scheme or whether the suit property has been orally partitioned or not? are the questions which requires trial.

From the pleadings, it is Crystal clear that certain triable issues have been raised by the defendants which can be decided only after adjudication of the present case. Now since there is no unequivocal and clear admission on behalf of defendants no. 1, 2 and 3 and the matter requires trial, the application of the plaintiff u/o 12 Rule 6 CPC stands dismissed.

Ld. Counsel for parties prays that issues be framed.

Following issues are hereby framed for adjudication:-

(1) Whether the plaintiff is entitled to decree of partition as prayed for ? OPP

(2) Whether the plaintiff is also entitled to recovery of the suit amount as prayed for? OPP

(3) Whether the plaintiff is entitled for use and occupation charges from defendant no. 1 as prayed for ? OPP

(4) Relief.

No other issues are raised or pressed for.

Now, be put up for PE on 28.08.2019. Let advance copy of evidence by way of affidavits of witnesses be supplied to the opposite counsel at least one week before next date of hearing, failing which a cost of Rs. 2000/- shall be imposed on the plaintiff. List of witnesses be also filed by both the parties within 15 days from today.

(Mohinder Virat)
ADJ-02/SE/Saket/New Delhi
01.06.2019