

CS DJ No.320/2024
Maya Devi & Ors. Vs. Sonu Kumar & Ors.

28.09.2024

Present: Plaintiff No.1&2 with Counsels Sh. Rajesh Kumar & Sh. Apoorv Shankar.
All the 4 Defendants with Counsel Sh. Vijay Pratap Singh.

Reply to defendants' application U/O.7 R.11 CPC is filed. Copy is supplied.

Application U/Sec.151 CPC for seeking equal distribution of rental income generated from the suit property is filed. Copy is supplied.

Replication to joint Written Statement of defendants is filed. Copy is supplied.

The defendant no.4 has already filed application U/O.1 R.10 CPC for deletion of her name from the array of the parties. It is submitted by counsels for plaintiffs that the plaintiffs do not want to file reply to the aforesaid application and they are ready to straight-away arguments on the same.

Hence, arguments heard on the aforesaid application

U/O.1 R.10 CPC. Record perused.

It is submitted by counsel for defendants that neither any relief is sought by plaintiffs against defendant no.4 nor defendant no.4 is the necessary party in the present case and therefore, the aforesaid application U/O.1 R.10 CPC has been filed for deletion of her name from the array of parties.

At this stage, it is submitted by counsel for plaintiffs that the plaintiffs do not have any objection if the aforesaid application is allowed and the name of defendant no.4 is deleted from the array of parties. Hence, **application U/O.1 R.10 CPC is allowed and the name of defendant no.4 stands deleted from the array of parties.**

Let Amended Memo of Parties be filed on record within a week.

Arguments heard on the application filed by defendant no.1 U/O.7 R.11 CPC. Record perused.

It is submitted by defendants' counsel that the aforesaid application has been filed under under Clause (a) & (b) of Rule 11 of Order 7 CPC as neither the Plaintiff is disclosing any cause of action nor the suit has been properly valued nor sufficient Court fee has been affixed on the Plaintiff.

So far as the application U/O.7 R.11(a) is concerned, the same has been filed by stating that the Plaintiff does not disclose any cause of action as no partition suit is maintainable unless the Will dated 16.02.2023 of deceased Laxmi Devi is declared null & void.

On perusal of record, it is revealed that the plaintiff has already sought the relief of cancellation of Will dated 16.02.2023 in the Prayer Clause of the present suit. The defendants have failed to plead or show as to how the Plaintiff is not disclosing any cause of action. Hence, the application U/O.7 R.11(a) CPC is liable to be dismissed. However, so far as the application U/O.7 R.11(b) CPC is concerned, it is found on perusal of Plaintiff that the plaintiff has not mentioned anything regarding valuation of the present suit in the present Plaintiff. Therefore, the plaintiff is directed to properly value the suit and pay the requisite Court Fee by taking appropriate steps in this regard. Application filed by defendants U/O.7 R.11 CPC stands disposed of accordingly.

Put up on **06.12.2024** for further proceedings.

(Navita Kumari Bagha)
DJ-02 (South-East), Saket Court
New Delhi/28.09.2024 (Sushil)