

13CS DJ ADJ918-19
SUDESH Vs. SUNITA

27.05.2023

Present: Ms. Himanshi Bhowal, Ld. Counsel for the plaintiff.
None for the defendant.

None has appeared on behalf of the defendant despite repeated calls since morning. Even no reply has been filed on behalf of the defendant to the applications moved by plaintiff U/o 1 rule 10 CPC and order 6 rule 17 CPC.

In view thereof, the said applications are taken for disposal on merit.

Vide application U/o 1 rule 10 CPC, plaintiff seeks to implead Jyoti, Vivek and Ravi as defendant no. 2 to 4 as it has been averred by defendant that the father of the parties married again and said Jyoti, Vivek and Ravi are the children from second marriage.

Therefore, in my considered view the proposed defendants are necessary party in present suit for partition, therefore, they are impleaded as defendant no. 2,3 and 4 in the instant case.

Another application seeking amendment of plaint U/o 6 rule 17 CPC has been moved on behalf of the plaintiff in view of discovery of the fact that there are other legal heirs i.e. defendant no. 2, 3 and 4 of deceased father and therefore the suit

for partition is required to be amended accordingly as the share of the plaintiff in the suit property comes to one fifth (1/5th) instead of half (1/2).

Heard. Considered.

Since the said amendment is necessary for determination of real controversy between the parties and since the factum of other legal heirs came into notice of the plaintiff only after filing of WS by the defendant, therefore, the application **U/o 6 rule 17 CPC seeking amendment of plaint stands allowed. Amended plaint along with amended memo of parties are taken on record.**

Both the applications stands disposed of in terms of aforesaid observations.

Defendant Sunita is at liberty to file amended WS to the amended plaint within stipulated time with advance copy to other side. The replication, if any, thereafter be filed within 4 weeks of receipt of copy of amended WS with advance copy to other side.

Issue summons to the defendant no. 2,3 and 4 vide PF, speed post for **11.10.2023.**

(ANUJ AGRAWAL)
ADJ-05 (SW):Dwarka Courts
New Delhi:27.05.2023