

29.07.2019

OS No.692/2011

ORDERS ON APPLICATION U/O VI Rule 17 OF CPC

The defendant No.2 has filed the application U/o.6 rule 17 of CPC for amend the written statement.

2. The defendant has sought to include the pleadings in para 5(c) and para 8 by pleading that plaintiffs and defendant No.1 are the tenants of defendant No.2 and they have failed to the rent and got filed this suit through his children to make unlawful gain.

3. In the affidavit enclosed to the application it is stated that the plaintiff has filed the false suit seeking partition. The suit property is the self acquired property of defendant No.1 and he has sold the suit property to defendant No.2 through sale deed dated 03.06.2011. The suit property being the residential house the defendant No.1 sought time to shift his residents till alternative accommodation is secured. Hence, the defendant No.2 has put them in possession by executing rent agreement on 08.06.2011. When the defendant No.2 insisted to vacate the house the defendant No.1 has got filed the suit through his children. It is stated that while preparing the written statement the rental agreement was mis placed. Therefore the defendant No.2 has sought plead about the same by way of amendment.

Therefore the defendant No.2 has prayed to allow the application.

4. The plaintiff has filed objections to the application and denied allegation made in the affidavit. The stated that there in no the documents, the regard to the additional pleadings therefore the plaintiff has sought to reject the application.

5. Heard arguments, perused the records.

6. This suit is filed by the plaintiff is for the relief of partition and separate possession. The defendant No.2 is the purchaser of the suit schedule property from the defendant No.1. With regard to possession of the plaintiff and defendant no.1, the defendant No.2 has to plead that they are tenants. The contention of the plaintiff that no document is produced by the defendant No.2 in support of this pleading cannot be accepted. The burden is on the defendant No.2 to prove said pleading. The main issue this suit is whether the suit property is the joint property or not. The defendant is at liberty take any defense. More over in this suit issues are not framed. Therefore the application filed by defendant No.2 deserves to be allowed. Hence, I proceed to pass the following :

ORDER

The applications filed by the defendant No.2 U/o. VI rule 17 of CPC is hereby allowed with cost of Rs.300/-.

The plaintiff is permitted to carryout amendment.

For amendment : by 19-08-2019.

(Gokula .K)
Prl., Civil Judge & JMFC.,
Anekal