

26.09.2022

COMMON ORDER ON 3 IAS DATED 26-11-2010, 22-3-2013 AND 21-3-2014

These three applications are filed by the plaintiff under Order VI Rule 17 R/W Section 151 of the CPC seeking amendment in the plaint. All the above IAs are unnumbered. There are number of unnumbered IAs on file, hence to avoid confusion, they are taken as per date of filing.

In IA dated 26-11-2010, it is prayed to amend the plaint by adding proposed amendment to insert ITEM No. 10 to ITEM No.19 in the suit schedule property.

In IA dated 22-03-2013, it is prayed to amend the plaint by adding proposed amendment to insert ITEMS No. 20 to 26 in the suit schedule property.

In IA dated 21-03-2014, it is prayed to amend the plaint by adding proposed amendment to insert ITEMS No. 27 to 30 in the suit schedule property.

In spite of sufficient opportunities the defendants have not filed their objection to these IAs, hence objection to these IAs are taken as not filed and heard on IAs. In the accompanying affidavits to IAs, it is stated that these proposed items no 10 to 30 in different IAs are the joint family propertied standing in the name of defendants No.4 and 6 and

the proposed defendant No.38 who is the wife of 4th defendant. According to the plaintiff, these properties were purchased through the contribution of father which may be treated as out of joint family property.

On perusal of pleadings and materials on record, it is found that the suit is for partition and separate possession of plaintiffs' share in the suit schedule properties. Therefore, if these applications are allowed, it will not change the cause of action or nature of the suit. These applications were filed before commencement of trial. The defendants have opportunity to defend themselves by filing their additional written statement or defend in the trial. To avoid multiplicity of proceedings and delay and in the interest of justice, these applications are entitled to be allowed. Hence, this court proceed to pass the following common order on above 3 IAs.

Common Order

In IA dated 26-11-2010, 22.03.2013, and 21.03.2014 filed by the Plaintiff under Order VI Rule 17 R/W Section 151 of CPC for the amendment of the plaint by inserting Item No 10 to item No 30 are hereby allowed.

The plaintiff is hereby permitted to amend the plaint to the extent of item numbers 10 to 30 as prayed in the above 3 IAs.

For amendment of plaint and to furnish amended plaint after carrying

out amendment of cause title in original plaint, call on 18-10-2022.

XVI Addl. City Civil & Sessions Judge,
Bengaluru.

Common Order on IA dated 21.12.2009 and IA Nos.7 to 9 pronounced in Open Court vide separate Orders:

IA dated 21-12-2009, filed by the plaintiff under Order 1 Rule 10(2) of the CPC to implead proposed defendant No 18 is hereby dismissed with cost of Rs.1000/-.

IA No.7 filed by the plaintiff under Order 1 Rule 10(2) of the CPC to implead proposed defendant No 19 to 21 is hereby dismissed with cost of Rs.1000/-.

I A No.8 filed by the plaintiff under Order 1 Rule 10(2) of the CPC to implead proposed defendant No.22 is hereby dismissed with cost of Rs.1000/-.

IA No.9 filed by the plaintiff under Order 1 Rule 10(2) of the CPC is hereby partly allowed pertaining to proposed defendant No 35 and 36 and 38. IA in respect of the proposed defendants No.23 to 34 and 37, prayer is rejected with cost of Rs.1000/-.

The counsel for plaintiff is hereby permitted to amend cause title of the plaint only regarding Proposed defendant No. 35,36 & 38. The plaintiff is hereby permitted to

implead proposed defendant No.35,36 and 38 only.

for amendment of cause title of the plaint for impleading proposed defendants No.35,36 and 38 as Defendants and for filing of amended plaint.

For payment of cost and for amendment and amended plaint, call on

XVI Addl. City Civil & Sessions Judge,
Bengaluru.