

Orders on I.A filed Under Order 1 Rule 10 (2) R/w Section 151 of CPC

The plaintiff has filed the above application when the case was posted for cross examination of P.W-1 to implead the additional defendant as defendant No.2.

2. In the annexed affidavit it is stated that during the pendency of this suit, the defendant sold the suit schedule property in favour of proposed defendant in order to deprive the rights of the plaintiff. Therefore, the said proposed defendant is necessary and proper party for adjudication of this case. Hence, prays to allow the application.

3. On service of notice, the proposed defendant remain absent.

4. Heard the arguments. Perused the records.

5. The plaintiff has filed the above suit against the defendant for the relief of specific performance of contract in pursuance of agreement of sale dated 19-8-2013 alleged to be executed by the defendant agreeing to sell the suit schedule property for valuable consideration. On service of summons, the defendant appeared through her counsel and also filed written statement. On rival pleadings this court has framed proper issues. In order to prove the issues, the plaintiff examined himself as P.W-1 and marked documents. When the case was

posted for cross examination of P.W-1, the above application is filed to implead the proposed defendant stating that during pendency of this suit, the defendant fraudulently sold the suit schedule property with an intention to deprive the rights of the plaintiff.

6. In support of his statement, he has produced copy of sale deed dated 16-1-2020 which shows that the defendant has sold the suit schedule property along with her children in favour of proposed defendant for valuable consideration. Further, he has produced the mutation and RTC extracts. Though the notice was served on the proposed defendant, he remain absent and also not challenged the said statement by filing the objections.

7. The suit is filed for specific performance of contract on the agreement of sale dated 19-8-2013, during pendency of the suit the defendant sold the suit schedule property in favour of proposed defendant. Hence, he is the proper and necessary party for adjudication of this case. Otherwise, the plaintiff may put to great hardship and injustice and it may leads to multiplicity of proceedings between the parties. Hence, I proceed to pass the following:-

ORDER

I.A. filed by the plaintiff under Order 1 Rule 10(2) R/w Section 151 of CPC is hereby allowed.

The plaintiff is permitted to implead the proposed defendant as defendant No.2 in the above case by amending the plaint.

The plaintiff shall furnish amended plaint accordingly.

For compliance by 27/06/2023.

Senior Civil Judge & JMFC,
Hosakote.