

ORDERS ON APPLICATION IA No. III U/ ORDER 22 RULE 4 & R/w Sec. 151 OF CPC

Sri. R.V. Counsel submits the IA NO.III is pending. Hence, on perusal of the order sheet on 11.10.2017 this court dispose the IA NO. III to V but in the order portion IA NO.IV to VI is mentioned instead of III to VI.

2. As per the order the IA NO. III is disposed on merit and also permitted to bring the legal heirs of defendant no.8 on record. Hence, the objections raised by the R.V. Counsel is not sustainable and prayer is rejected.

ORDERS ON APPLICATION IA No. XIV U/ Sec. 151 OF CPC

The plaintiffs have filed application U/sec. 151 of CPC for seeking permission to amend the cause title of the plaint with respect to adding names of deceased defendant no.8 as per the order dated 11.10.2017.

2. It is stated that the plaintiff have filed the suit against the defendants for the partition and separate possession against the defendants. The defendant no.8 was died on 25.11.2015 and the plaintiffs have filed the application for bringing his Lr's on records through IA NO.III to IV. The Interim application are allowed on 11.10.2017 but, due to inadvertence they could not carry out the amendment. The plaintiff further submitted that If the application are not allowed they will be put to hardship and irreparable loss and injury. Hence, they prayed allow the application.

3. The defendant no.8 filed objections to the IA contended that the application filed by the plaintiff is not maintainable either in law or on facts and the same liable to be dismissed. The plaintiff filed this suit

against defendant no.8 the defendant no.8 was died on 25.10.2015, but the plaintiff did not choose to file necessary application and bring the legal heirs on records. Thereafter words on 04.02.2016 they have filed one insufficient application on IA No. III. The plaintiff again on 22.07.2016 filed IA No. IV application under 22 Rule 4. The plaintiff then on 16.10.2016 filed IA NO. V to VI U/O 22 rule 9 Sec. 5 of Limitation Act. IA No. IV to VI allowed on 11.10.2017 and plaintiff was permitted to bring the LR's of the defendant no.8 on record and carry out the amendment on or before 30.10.2017.,the plaintiff has not carry out the amendment and not file the application. Hence, defendant no.8 Lr's seeking for dismissed the application.

4. Heard the both side.

5. The plaintiffs have filed this suit for Partition and separate possession and consequential reliefs. The defendant No.8 reported to be died on 25.11.2015 The plaintiff counsel filed the IA NO. III to VI for seeking to bring the legal heirs of the defendant no.8. On perusal of the order sheet the application allowed on 10.11.2017 but the plaintiffs are not carried out the amendment nor seeking permission to file the amended plaint. As per order 6 rule 18 if a party who has obtained an order for leave to amend does not amend accordingly within the time limit for the purpose by the order, or if no time is thereby limited then within 14 days from date of the order, he shall not be permitted to amend after the expiration of such limited time as aforesaid or of such 14 days, as the case may be, unless the time is extended by the Court.

6. As per the order dated 11.10.2017 there is no time is fixed hence it is 14 days. On perusal the order sheet after the pronouncement of the order the P.O is transferred and on 30.10.2017 to 27.03.2019 the court is vacant

and also the plaintiffs have not moved the application before the concurrent court. This attitude shows that the plaintiffs have not seriously prosecute their case. However, the suit is for partition and separate possession of the suit properties. The rights of the defendant no.8 LR's is survive and the matter will have to be dispose on merit if this application is not permitted the irreparable loss is occurred in favour of the both parties and to avoid the multiplicity of the proceedings and in interest of the justice opportunity have to be given to the defendants to prosecute the suit. There was delay for amendment of cause title of the plaint and filing amended plaint, hence it will be compensated on money. Thus, Accordingly, I proceed to pass the following,

ORDER

The applications filed by the plaintiff in IA. No. XIV U/sec. 151 of CPC is hereby allowed on cost of Rs. 3000/-

The plaintiffs are permitted to bring the proposed defendant No.8 (a) to (d) on record as supplemental defendant within 10 days when the court opens regularly.

For amendment and amended pliant by

(SHIVAKUMARA.G.J.)

**Addl. Civil Judge and JMFC.,
Chinthamani.**