

ORDERS ON I.A. No.IV

The defendants have filed this application U/O. VI R. 17 of CPC to amend the written statement by adding para No.13(a) to explain the facts about the filing of the suit in OS.No.133/2019 on the file of learned PCJ, Hiriya by one Nagappa.

2. The defendant No.4 has stated that, by oversight the fact about pendency of the suit in OS.No.133/2019 where left out. But the inclusion of these facts is essential. Hence, prayed to allow the application.

3. The plaintiff had filed objections stating that, the application is not maintainable either in law or on facts. The plaintiff has submitted that, the insertion of fact about OS.No.133/2019 is not at all necessary. The instant application has been filed to harass the plaintiff by one or the other way.

4. The plaintiff further submitted that, the application is highly belated and not maintainable in the eye of law. Hence, prayed to reject the application.

5. I have heard from both side and perused the records.

6. The instant suit is filed for specific performance of contract based on the registered

agreement of sale dated:28.02.20218. Up course the defendants have denied the execution of said agreement and explain their defense. But, they have not mentioned anything about the suit in OS.133/2019 which has been filed by Nagappa, the uncle of the defendants seeking partition and separate possession in respect of the present suit schedule property.

7. Therefore, considering the defense of the defendants and having regard to the nature of the instant suit and also in OS.133/2019. I am of the opinion that, the proposed amendment has become necessary. Otherwise, the defendants will not in a position to substantiate their defense properly. Hence, for the foregoing discussions, the application is deserved to be allowed subject to payment of reasonable costs. Hence, the following:

ORDER

I.A No.4 filed by the defendants
U/O. VI R.17 of CPC is allowed on
cost of Rs.500-00.

Thereby the defendants is
permitted to add the proposed
amendment to the written statement
within 7 days from the date of this

order and shall furnish amended W/S
also. For compliance by 12.07.2022.

Senior Civil Judge & JMFC
Hiriyur