

ORDERS ON IA.No.15 and 16

IA.No.15 an application under Sec.151 of CPC filed by plaintiff to reopen the suit.

IA.No.16 an application U/o 6 rule 17 of CPC filed by the plaintiff to amend the plaint.

Both applications are supported by an affidavit sworn by plaintiff.

On the other hand the defendants have filed objection to IA.No.15 and I.A.No.16.

Heard both side. Perused the material on record.

It is submitted by the plaintiff is that, the suit is posted for arguments. It is submitted by the plaintiff that, suit schedule property is not included and even the defendants in this regard cross examined. Hence, prays to implead the suit property by allowing the applications.

On the other hand, the defendants submits application is not maintainable. The application cannot be entertained at this stage when case is posted for arguments. The defendants have also

taken contention that, oral partition taken place. Under Such circumstance, suit itself does not survival for consideration. Hence prays to dismiss the applications.

On perusal of the record, the plaintiff filed suit for declaration and partition. This application is filed by the plaintiff to included the suit schedule property as defendants taken contention that, suit property is not added. On perusal of the cross examination it is true that, the defendants have taken such contention. Since this is suit for partition, it is just and necessary to allow the application to include the property. If I.As are rejected the plaintiff will be put into great hardship and inconvenience. On other hand, no prejudice will be caused to the other side. Hence, in the interest of justice and equity, it is just and necessary to allow the applications. Hence, I proceed to pass the following;

ORDER

**IA.No.15 an application under
Sec.151 of CPC filed by plaintiff to
reopen the suit is hereby allowed.**

IA.No.16 an application U/o 6 rule 17 of CPC filed by the plaintiff to amend the plaint is hereby allowed.

Plaintiff is permitted to amend the plaint as prayed in IA.No.16.

Plaintiff is directed to amend the plaint and to furnish amended plaint.

Call on 10.03.2023.

**Senior Civil Judge & JMFC.,
Hosadurga.**