

ORDER ON IA-7.

When the matter was posted for reply of hearing on IA-6, on 30-06-2023, the plaintiff maintained present application U/o 16 R 17 R/w. Sec. 151 of CPC praying to add Item No.6 i.e., Sy.No.85/3 measuring 1 acre 17 guntas land of Vadnal (v), Channagiri Tq., by permitting the plaintiff to amend the plaint.

2. In the affidavit annexed to the application, the plaintiffs stated that, they filed this suit for the relief of P and SP. Sy.No.85/3 is also joint family properties, which was not included as suit schedule properties for want of documents to that effect. Now the plaintiffs obtained the documents which reveals that, the proposed Item No.6 schedule property detailed in the schedule is also joint family property and inclusion of said property as suit schedule property is necessary and prayed to allow the application.

3. The D 1 resisted the application contending that, the application is not maintainable as the plaintiffs already maintained IA-5 getting amendment of plaint by way of including the proposed Item no. 11 to 14 properties detailed in the said application which is pending for consideration. In view of

pendency of IA-5, present application is not maintainable in view of same property referred in IA-5.

4. *Points that arised for consideration are*

1. *.Whether the plaintiffs made out sufficient grounds for permitting them to amend the plaint by including the application schedule property as suit schedule property ?*
2. *.What Order?*

5. Heard, Perused the records my answers to the above points are,

POINT NO:1. : In the ***Negative.***

POINT NO:2. : As per final order for the following

REASONS

6. **POINT NO:1.** On perusal of the records, it is noticed that, the plaintiffs already maintained IA-5 U/o 6 R 17 of CPC praying to amend the plaint by including proposed Item No.11 to 14 properties referred in the application. Wherein the proposed Item No.13 property is Sy.No.85/3 measuring 1 acre 17 guntas land of Vadnal (v). Admittedly, IA-5 is still

pending for consideration. When the IA-5 is pending, the plaintiff once again maintained IA-7 for including Sy.No.85/3 which is not maintainable on the face of it obvious reason that, this court will consider the nature of the properties referred at IA-5 as well the rights of the parties existed thereon for adjudication of this matter. It seems that, in order to postpone the matter without advancing the reply argument on IA-6, the plaintiff once again came up with present application which needs no consideration and liable to be rejected on cost as well. With these observation, this court is of the considered opinion that, the application is devoid of merits. Accordingly. this point NO:1 is answered in the ***Negative***.

7. **POINT NO:2.** In view of foregoing the reasons, I proceed to pass the following,

ORDER

The IA NO:7 filed U/o 6 R 17 of CPC by plaintiffs is hereby dismissed on cost of Rs.500/-.

Senior Civil Judge & JMFC
Channagiri.

ORDER ON IA-8

Along with IA-7 on 20-06-2023, the plaintiffs maintained present application U/o 7 R 14 R/w. Sec. 151 of CPC seeking permission to produce the documents.

2. In the affidavit annexed to the application, the plaintiffs stated that, the documents now sought for production were obtained recently which are material to prove the case of the plaintiff and prayed permission to produce the documents.

3. None of the defendants objected the application.

4. Heard. Perused the records. It is noticed that, by way of present application, the plaintiffs wants to get produce the documents like MR No.T 125/2021-22, RTC extract of Sy.No.85/3 and 85/6 which are subject matter of IA-5. For consideration of IA-5, the documents sought for production under this application are necessary. Accordingly, I proceed to pass the following,

ORDER

The IA-8 so filed by the plaintiffs U/o 7 R 14 R/w. Sec 151 of CPC is hereby allowed.

Call on for reply on IA-6 finally by. 20-01-2024.

Senior Civil Judge & JMFC
Channagiri.