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ORDER ON IA NO:5

When the matter was posted for further chief of DW 1, the counsel for the plaintiffs came up with present application U/o 6 R 17 R/w. Sec. 151 of CPC praying to permit the plaintiff to include proposed Item No. 11 to 14 in plaint A schedule property and 2 vehicle as detailed in the application to be included as Item No. 7 and 8 of plaint B schedule property.

1. In the affidavit annexed to the application, the P No.1 stated that, at the time filing the this suit for the relief of P and SP, for bonafied mistake, Sy.No.43/2, 24/1 and 85/3 were not included in the suit, as are also joint family properties staining in the name of proposed D 9, 10 who purchased during pendency of this suit. Wherein, the plaintiffs are having legitimate share and inclusion of the properties referred in the application are necessary for proper adjudication of the matter and prays to allow the application.

2. The D No.1 and proposed D 9 and 10 filed objections to this application contending that, the application is not maintainable for want of complete and clarified version of the facts. The application is

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belated one as filed when the matter was posted for further chief of DW 1. The application is lacking behind the reasons. The reasons assigned in the affidavit are not enough to conclude that, the proposed properties sought for inclusion in the plaint or ancestral joint family properties. The D No.1 is adopted son of Eshwarappa and such moved out of the family of plaintiffs and defendants long back. And as such, the proposed properties referred in the application are not the joint family properties of plaintiff and other defendants. The plaintiffs not placed any documents to show that the proposed properties are joint family properties and leads to be included for better adjudication of the matter. The application devoid of merits and prays to reject the application.

3. The Points that arise for consideration are,

1. Whether the plaintiffs made out sufficient grounds that, inclusion of the properties detailed in the applications are necessary for proper adjudication of the matter ?

2. What order?

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4. 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

5. **POINT NO:1.** Having considered the rival contentions the parties, this court noticed that, after filing this application, the plaintiff also maintained IA-6 U/o 1 R 10(2) R/w. Sec. 1 51 of CPC praying to implead proposed D 9, 10 who are purchasers of the proposed properties referred in this application. The said IA-6 came to be rejected by this court on merits on 08-02-2024.

6. Then, the plaintiffs also maintained IA-7 U/o 6 R 17 R/w. Sec. 151 of CPC praying add proposed Item No.7 as detailed in the application i.e., Sy.No.85/3 and the said application also came to be dismissed with cost of Rs.500/- on merits on 06-01-2024.

7. Without pressing the IA-5, the plaintiffs during pendency of IA-5, maintained IA-6, 7 which came to be rejected. Now, for consideration of this application, the plaintiffs have to place materials to show that the properties i.e., Sy.No.43/2 measuring 1 acre 8 guntas land situated at Komaranahalli village, Channagiri

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Sy.No.24/1 measuring 1 acre 4 guntas land situated at Vadnal village, Channagiri Tq., and Sy.No. 85/3 measuring 1 acre 17 guntas land situated at Vadnal village, Channagiri Tq., The plaintiffs have to make out prima facie case that these landed properties are joint family properties or ancestral properties. The plaintiffs out these 3 landed properties, placed the RTC extract of Sy.No.85/3 standing in the name of one Tejas, who is referred as proposed D No. 10 at IA-6. The RTC extract of Sy.No.85/3 to clearly recites that, the said property is purchased by proposed D No. 10 dt. 07-06-2022 i.e., during pendency of this suit. The proposed D 10 is son of D No. 2. While disposing IA-6, this court clearly held that, during pendency of this suit, the plaintiffs case is silent as to how the said property being purchased in the name of proposed D No.10. In the absence of necessary pleadings as well as materials, this court is of the considered view that, the proposed Item No. 13 landed property referred in this application is neither the joint family property nor ancestral property.

8. So far as, the other landed properties i.e., Item No. 11, 12 and 14 properties referred in this application as well as Item No. 7 and 8 of plaint B schedule properties, absolutely, the plaintiffs have not placed any materials for consideration of the fact that, these properties are

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the joint family properties or ancestral properties and needs consideration for adjudication of this matter.

9. Having regard to the above observation, this court is of the considered view that, the plaintiffs have not placed any materials to held that the proposed properties referred in the applications are joint family properties or ancestral properties. It seems that, in the absence of any corroborating materials, the plaintiffs blindly came up with present application which needs no consideration and needs to be rejected with cost as well. In the absence of the properties referred in the application, the present suit can be adjudicated effectively. Accordingly, this point is answered in the *Negative*.

10. **PIONT N0:2.** In view of foregoing reasons, I proceed to pass the following,

ORDER.

I.A N0:5 so filed by plaintiffs U/o 6 R 17 R/w. Sec. 151 of CPC is hereby dismissed with cost of Rs.500/-.

Call on for further chief of DW 1 by.
28-05-2024.

Senior Civil Judge & JMFC
Channagiri.