

I.A.No.5 filed by the plaintiff U/O.1 Rule 10(2) of CPC requesting the Court to implead proposed party whose names shown in schedule to the application as defendant No.16 in present suit.

Notice issued to the proposed parties on I.A.No.5.

In pursuance of service of notice the proposed party tendered his appearance before the Court through counsel and submitted that, orally objected to above said application.

Heard the learned counsel for the plaintiff.

Perused the records placed before the Court.

In an affidavit filed in support of the application it is stated that, she has filed the above suit for partition and separate possession with respect of suit schedule

properties. Now he is stands for evidence of her, while preparing for evidence it was noticed that, daughter of defendant No.2 by name Drakshayini was made party. Since she is one of the daughter of defendant No.2 and also party to the partition deed dated 06/04/2016, she is necessary party to the suit. Hence her presence is very much necessary for effective adjudication of dispute involved in the suit. The proposed party has not denied the partition deed. On consideration of nature of suit, and dispute involved in the same, presence of proposed parties is necessary for effective adjudication of dispute involved in the suit.

Hence I proceed to pass the following

ORDER

I.A.No.5 filed by plaintiff U/O.1 Rule 10(2) of CPC is hereby allowed.

The plaintiff is permitted to implead proposed parties whose name shown in schedule to the application as defendant No.16 in present suit.

The plaintiff is directed to carry out necessary correction in cause title of plaint by impleading proposed parties as

defendants No.16 and furnish amended copy of the same on next date of hearing.

Call on :

Sd/-

Senior Civil Judge
Harihara.

I.A.No.6 filed by the Plaintiff U/O.6 Rule 17 R/W Sec. 151 of CPC requesting the Court to permit the plaintiff to amend the plaint as shown in schedule to the application.

The copy of the application served on the counsel for defendants.

The counsel for defendants orally objected, contending that, no grounds made out to allow application.

Heard on both side.

Perused the records placed before the Court.

The following points arise for my consideration:

Point No.1 : Whether plaintiff has made out sufficient grounds to allow an application seeking amendment to the pleadings ?

Point No.2 : What Order ?

My answer to the above points are as follows:

Point No.1 : In the affirmative,

Point No.2 : As per final order, for the following:

REASONS

Point No.1 : It is stated in an affidavit filed in support of application that, due to oversight some of the property is not included in the suit. Recently the plaintiff obtained partition deed and other records pertain to properties. Hence, some of the properties included and sought for other reliefs in the plaint is very much necessary.

No doubt as per amended CPC no amendment to the pleadings be allowed once trial is commenced. But there is proviso provided wherein amendment to the pleadings even after commencement of trial is permission in case, such amendment is very much necessary for effective adjudication of lis between the parties. Further, proposed amendment does not change nature of suit or cause of action. Admittedly suit is one for partition and separate possession of share of parties. It is settled proposition of law that, suit must

include all joint family properties. Hence application deserves to be allowed. Hence I answer point No.1 in the Affirmative.

Point No.2 : On above made discussion on point No.1, I proceed to pass the following:

ORDER

I.A.No.6 filed by the plaintiff U/O.6 Rule 17 of CPC is hereby allowed.

The plaintiff is permitted to amend the pleadings in the plaint as prayed for in the schedule to the application.

The plaintiff is hereby directed to carry out amendment to the pleadings as sought for and furnish amended plaint copy.

Call on :

Sd/-
Senior Civil Judge & JMFC
Harihara.