

Between:

Sudesh M. Bhandary

... Petitioner

Vs.

Smt. Vedavathi and others

... Defendants

ORDERS ON I.A.No.50 & 57

The respondent No.29(a) and (b) have filed an application i.e. I.A. No. 50 under Order XXII Rule 4 read with Sec.151 of C.P.C. to implead them in the place of respondent No.29 as legal heirs.

2. One of the petitioners has sworn to an affidavit stating that, they are legal heirs, they are interested to continue proceedings on behalf of their father and they have got right over the same.

3. Respondent No.23 has filed an application i.e. I.A. No.57 under Sec.151 of C.P.C. to carve out 1/181 joint share of respondent No.23 to 27 and legal heirs of respondent No.22.

4. One of the respondents has sworn to an affidavit stating that, his father Sanjeeva Alva, was defendant No.10 in the suit and he was respondent No.22 in the above case, who died recently leaving behind them as legal heirs and therefore, 1/181 share will have to be carved out in the Final Decree Proceedings by passing Supplemental Preliminary Decree.

5. Learned counsel for the petitioners has submitted that, as far as I.A.No.50 is concerned, there is no vakalath, therefore, same cannot be entertained.

6. As far as I.A.No.57 is concerned, he has no objection to pass order. Since there is no vakalath of the legal heirs, at this stage they cannot seek any relief. Therefore, I proceed to pass the following :

ORDER

I.A.No.50 is dismissed.

I.A.No.57 is allowed.

Commissioner is hereby directed to carve out 1/181 joint share of respondent No.23 to 27 at the time of division of properties.

As far as I.A. No.50 is concerned, applicants have not filed their vakalath before the Court, accordingly it is dismissed.

(Dictated)

**Prl. Senior Civil Judge & JMFC.,
Bantwal, D.K.**