

ORDER ON I.A NO.VI

OS 86/2013 Dt:13-11-2020

I.A. No.VI is filed by the defendant no.10 under Order 14 Rule 5 r/w Sec.151 of CPC praying to frame proposed issues as mentioned in the application as additional issues in the above case and such other reliefs.

2. In the memorandum of facts, it is alleged that, the defendant no.10 has specifically contended in

her written statement that, she is not necessary party to the suit and she is a bonafide purchaser of valuable price. On this contention the issues have not been framed. Hence, it is prayed to allow the application.

3. On the other hand, the plaintiffs have filed objection contending that, the Court has sufficiently framed issues which are enough to decide the question in controversy between the parties. Therefore, the plaintiffs have prayed to dismiss the application with costs.

4. Heard the arguments on merits.

5. The following points arise for consideration;

1) *Whether the proposed issues are necessary to be framed?*

2) *What Order?*

6. The findings to the above points are as follows;

Point No.1:- In the **AFFIRMATIVE**

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

REASONS

7. **Point No.1:-** The plaintiffs have filed the present suit for partition and separate possession of the plaint 'A' schedule property. It is alleged in the plaint that, Smt. Maire Shedthi was the agriculture

tenant of the plaint 'A' schedule property. She died intestate leaving behind her three children. After her death, the 5th defendant submitted Form No.7 before the Land Tribunal. The Land Tribunal after enquiry granted the plaint 'A' schedule property in favour of the legal heirs of late Smt. Maire Shedthi. The plaintiffs are also one of the legal heirs and having share in the plaint 'A' schedule property. Hence, they have filed the present suit. On the other hand, the 5th defendant has specifically contended in his written statement that, late Smt. Maire Shedthi transferred chalageni tenancy right along with the plaint 'A' schedule property except Sy.no.222/3B to the defendant no.5 for personal cultivation through a registered sale deed dated 18.11.1968. Therefore, the plaintiffs have no right to ask their share in the properties which already transferred by late Smt. Maire Shedthi in favour of 5th defendant. The 10th defendant has contended that, she is a bonafide purchaser and she is not necessary party to the proceedings. Hence, she has prayed to dismiss the application.

8. Based on the pleadings, the issues have been framed. As contended by the 10th defendant, one of the proposed issues has not been framed and it is also necessary to correct the additional issue no.1 which

framed by this Court. Hence, without much discussion, the I.A. filed by the 10th defendant is required to be allowed. Accordingly, the Point No.1 held in the **Affirmative**.

9. **Point No.2:-** For the above said reason, the following;

ORDER

I.A.No.VI is filed by the defendant no.10 under Order 14 Rule 5 r/w Sec.151 of CPC is hereby allowed.

The additional issue no.1 has been deleted and proposal additional issues as stated in the application have been framed.

Call on for plaintiff evidence by 05.12.2020.

sd/-

(YASHAVANTH KUMAR R.)
CIVIL JUDGE & J.M.F.C.,
MOODBIDRI