

05.04.2023**ORDERS ON I.A. No.IV AND V.**

These applications are filed by the plaintiff. The I.A. No.IV is filed under Order VII Rule 14 R/w Section 151 of CPC seeking permission to produce the RTC documents and I.A. No.V is filed under Order VI Rule 17 R/w section 151 of CPC seeking permission to amend the plaint para No.2 to insert para-2(c) as prayed for in the application.

2. In the accompanying affidavit the applicant/plaintiff has stated that she filed the present suit for partition and separate possession of suit properties and now recently she got RTC and from that she came to know that another property bearing Survey No.110/7 is also family property. Hence, it is necessary to plead about the same and add the same as suit property and produce the RTC pertaining to that property the present applications are filed. If these applications are allowed no harm will cause to the defendants. On the other hand, if the applications are not allowed it will cause injustice to her. Hence, she prayed to allow the applications.

3. The advocate for the defendants filed objections contending that the applicant filed the present applications only to protract the matter and harass the defendants. Further he contended that there is no any merit in the applications and there is no averment in the application with regard to nature

of suit property and plaintiff is not the joint family member. Hence, on all these grounds, it prayed to dismiss the applications.

4. Heard and perused the material placed on record.

5. The present suit is filed by the plaintiff for partition and separate possession of suit properties. The present applications are filed when the case is pending for plaintiff's evidence.

6. The applicant has filed I.A. No.V to amend the plaint and insert para No.2(c) and plead about Survey number of the proposed property i.e., Survey No.110/7. She filed I.A. No.IV to produce the RTC pertaining to said property. On perusal of that document prima facie it reveals that said RTC is standing in the name of defendant No.1 who is the propositus, as per genealogy. Thus, it reveals that it is necessary for the plaintiff to plead about the said property and include the said property also as one of the suit property. Whether the plaintiff is having right in that property or not has to be decided at the time of judgment.

7. Hence, if the present applications are allowed no harm will cause to the defendants. Moreover, the defendants are at liberty to cross-examine the plaintiff on said property. Thus, by considering the facts and circumstances of the case

and to avoid the multiplicity of proceedings, this Court is of the opinion that it is just and proper to permit the applicant to amend the plaint and produce the documents as prayed for in I.A. No.IV & V. Thus, I proceed to pass the following:

ORDER

I.A. No.IV and V filed by the plaintiff under Order VII Rule 14 R/w section 151 of CPC and under Order VI Rule 17 R/w section 151 of CPC respectively are hereby allowed.

The documents produced by the plaintiff are taken on record.

The plaintiff is permitted to amend the plaint as prayed for in I.A. No.V.

For amended plaint, call on 17.04.2023.

III Addl. Sr.C.J. & CJM., Dharwad