

28/04/2016

**ORDER ON I.A. NO.2 FILED UNDER
ORDER 6 RULE 17 R/W SEC. 151 OF CPC.**

The applicants/plaintiffs have filed the application along with the affidavit for inserting para No.8A and 12AA in the plaint that the document No.P-173/10-11, P-161/10-11 and P-169/10-11 of Sub-Registrar Office, Hubli are illegal, invalid and not binding upon the plaintiffs as the same are obtained by fraud and misrepresentation.

2. In the application, it is further averred that the proposed amendment does not change the nature of the suit, hence prays to allow the application.

3. On the other hand, the learned counsel for the defendant No.3 has filed the petitions stating that the application is false, frivolous and liable to be dismissed.

4. Heard the arguments of both the Sides.

5. Now the points that arise for my consideration are:

1) Whether the sufficient grounds exist to allow the I.A. No.2 as prayed for?

2) What order?

6. My answers to the point No.1 in the Affirmative and Point No.2 as per final order for the following:

REASONS

7. Point No.1 :- This is a suit for partition of legitimate share of the plaintiffs and also to declare that the sale agreement dated 6.4.2005 in favour of the defendant No.3 in respect of the suit property is illegal, invalid and not binding on the plaintiffs share.

8. As per the application averments the defendants no.4 to 6 have arranged to create the manipulated sale deeds as per sale deeds number mentioned in the application and hence the application is liable to be allowed for amendment.

9. On the other hand the defendants No.3 contended that the amendment is opposed to the nature of suit.

10. As this is a suit for partition and declaration, there is no new case introduced through the proposed amendment. Therefore if the application is allowed, no prejudice will be caused to the defendants. Therefore the I.A. No.2 is liable to be allowed. Hence I answer the point No.1 in the Affirmative.

11. Point No.2 :- In view of forgoing reasons and discussion, I proceed to pass the following:

ORDER

I.A. No.2 filed by the applicants/defendants under Order 6 Rule 17 R/w Sec. 151 of CPC is hereby allowed to amend the plaint as prayed for.

Prl. Senior Civil Judge &
JMFC, Hubli.

**ORDER ON I.A. NO.3 FILED UNDER
ORDER 16 RULE 6 R/W SEC. 151 OF CPC.**

The applicants/plaintiffs have filed the application seeking call for the necessary documents No.P173/10-11, P-161/10-11 and P-169/10-11 allegedly executed in the name of Sri. Vinod S/o Shantilal Telisera, Sri. Satish S/o Yamunasa Habib and Sri. Bharatkumar S/o Sayantilal Mahajanshetti respectively in respect of R.S. No.95/6 of Rayanal village from the Senior Sub-Registrar Office, Hubballi(South).

2. In the affidavit of application, it is said that as per the reply letter given by the Sub-Registrar, Hubballi (South) to the RTI application filed by the plaintiff No.4, the above said documents are arranged for registration of sale deed and the same are

fabricated and hence the same are to be summoned.

3. On the other hand, the defendant No.3 has filed objections stating that without taking certified copies of the public documents, intentionally filed this false application. Hence prays to reject the application.

4. Heard the arguments of both the Sides.

5. Now the points that arise for my consideration are:

1) Whether the sufficient grounds exist to allow the I.A. No.3 as prayed for?

2) What order?

6. My answers to the point No.1 in the Affirmative and Point No.2 as per final order for the following:

REASONS

7. Point No.1 :- As per the application and objections of both the parties, I.A. No.3 the alleged documents arranged for registration of sale deed are pending in the office of Senior Sub-Registrar Office, Hubli(South). As plaintiffs have denied the execution of agreement of sale in the name of

defendant No.3 by the defendant No.1 and 2 are disputed and moreover this is a suit for partition, I hold that it is necessary to call for said documents to avoid multiplicity of proceedings between the parties. Hence, I answer the point No.1 in the Affirmative.

11. Point No.2 :- In view of forgoing reasons and discussion, I proceed to pass the following:

ORDER

I.A. No.3 filed by the applicants/defendants under Order 16 Rule 6 R/w Sec. 151 of CPC is hereby allowed as prayed for.

Office shall call for the documents No.P-173/10-11, P-161/10-11 and P-169/10-11 mentioned in I.A. No.3 in detail from the Senior Sub-Registrar, Hubli (South) for further proceedings in the suit.

Prl. Senior Civil Judge &
JMFC, Hubli.

**ORDER ON I.A. NO.4 FILED UNDER
ORDER 1 RULE 10(2) R/W SEC. 151 OF
CPC.**

In this suit the notice of I.A. No.4 were issued to the proposed defendants No.4 Sri. Vinod S/o Shantilal Telisera, defendant No.5 Sri. Satish S/o Yamunasa Habib and defendant No.6 Sri. Bharatkumar S/o

Jayantilal Mahajanshetti as defendants in the suit.

2. Already the notice of I.A. No.4 have been served on the proposed defendants No.4 to 6 but they are remained absent as they are the persons seeking exeution of sale deeds in respect of the suit property and moreover documents of sale allegedly arranged before the Senior Sub-Registrar Office, it is necessary to allow the I.A. No.4 as prayed for. Hence I pass the following:

ORDER

I.A. No.4 filed under Order 1 Rule 10(2) R/w Sec. 151 of CPC filed by the applicants/plaintiffs is hereby allowed to implead them as defendants No.4 to 6 as prayed for.

Prl. Senior Civil Judge &
JMFC, Hubli.

Call for documents as per I.A. No.3 and amendment of plaint and cause title as per I.A. No.2 and 3 by 30.5.2016

Prl. Senior Civil Judge &
JMFC, Hubli.