

18.9.2024

Orders on IA No.7 U/O I Rule 10(2) of CPC

The plaintiffs have filed this application U/O 1 Rule 10(2) of CPC and sought to implead proposed defendant as defendant No.3.

2. The plaintiff No.1 has sworn to an affidavit in support of IA and stated that the defendant No.1 gifted the suit property to proposed defendant No.3 during pendency of the suit. Therefore, proposed defendant is proper and necessary party to the suit. Hence, prays to allow the IA.

3. After service of IA notice the proposed defendant has remained absent.

4. Perused the records. Heard arguments.

5. The plaintiff No.1 has stated on oath that the defendant No.1 gifted the suit property to the proposed defendant during pendency of the suit. The same goes to show that the proposed defendant acquired interest in the suit property during pendency of the suit. The said gift is hit by the doctrine of lis pendense. Therefore, even if the proposed defendant is not made as party to the suit the decree that will be passed in this suit will be binding on the proposed defendant. Therefore, in order to avoid multiplicity of suits and to an opportunity tro the proposed defendant to put forth his case it is just and necessary to implead him as defendant No.3. Hence, the following:

ORDER

The application filed by the plaintiffs U/O I Rule 10(2) of CPC is hereby allowed.

The proposed defendant is impleaded as defendant No.3 in this suit.

The plaintiffs shall amend the plaint and furnish amended plaint.

For amendment and amended plaint call on 23.9.2024.

Senior Civil Judge & JMFC, Sedam.