

31.7.2024

Orders on IA No.7 U/O VI Rule 17 of CPC

The plaintiff has filed this application U/O 6 Rule 17 of CPC and sought to amend the plaint.

2. The plaintiff has sworn to an affidavit in support of IA and stated that he has filed the suit for partition and separate possession. Recently he came to know that the defendant No.7 executed registered gift deed in favour of proposed defendant No.8. Therefore, he has to challenge the gift deed. The proposed amendment is necessary to decide the case on merits. Hence, prays to allow the IA.

3. The defendants have not filed objections to the IA.

4. Perused the records. Heard arguments.

5. The suit is one for the partition and separate possession. Though the evidence is commenced it has not made considerable headway. Therefore, there is no impediment to allow the IA. The plaintiff has already got impleaded the proposed defendant No.8 as party to the suit in whose favour the defendant No.7 executed registered gift deed. Now the plaintiff wants to challenge the said gift deed by way of this amendment. Therefore the proposed amendment is very much necessary to decide real controversy between the parties. If the IA is not allowed it may result in multiplicity of suits. The proposed amendment will not change the nature of

the suit as the reliefs sought to be claimed by way of amendment is ancillary to the main relief of partition. IF the amendment is allowed no prejudice would be caused to the defendants as the defendants 1 to 7 are having right to file additional written statement and defendant NO.8 is having right to file his written statement. Hence, the following:

ORDER

The application filed by the plaintiff U/O VI Rule 17 of CPC is hereby allowed.

The plaintiff shall amend the plaint and furnish amended plaint within 10 days from the date of this order.

For amendment and amended plaint. Call on 8.8.2024.

Senior Civil Judge & JMFC, Sedam.