

8.9.2023

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 29.8.2023 and sought to amend the plaint.

2. The plaintiff has sworn to an affidavit in support of IA and stated that he has filed this suit for the relief of specific performance of contract of sale. Due to oversight the fact that the defendant No.1 executed supplementary deed and received Rs.5,00,000/- is not mentioned in the plaint. Hence prays to allow the IA.

3. The defendant No.2 has filed objections to IA on 8.9.2023 and denied the entire contents of the affidavit and the proposed amendment. The proposed amendment is nothing but improvement of the pleading. Hence prays to dismiss the IA.

4. Perused the records. Heard arguments.

5. The suit is one for the relief of specific performance of the contract of sale. Though the issues are framed the evidence is not commenced. Further the proposed amendment will not change the nature of the suit. Therefore there is no impediment to allow the IA. Apart from this the burden to prove the facts alleged in the proposed amendment is on the plaintiff. Moreover the proposed amendment will not prejudice the defendants as they are having statutory right to file additional written statement. On perusal of the proposed amendment it is found that the proposed amendment is very much just and necessary to decide the real

controversy between the parties. 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 15.9.2023.

Senior Civil Judge & JMFC, Sedam.