

12.11.2024

Orders on IA No.4 U/O VI Rule 17 of CPC

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

2. The plaintiff No.1 has sworn to an affidavit in support of IA and stated that they have filed suit the relief of partition and separate possession. The defendants have filed written statement contending that there are other lands and more lands were allotted to the plaintiff. In view of the written statement it is necessary to bring the additional plea on record. Hence, prays to allow the IA.

3. Sri.K.J.K. Advocate for defendants 1 to 4 has submitted no objections to allow the IA.

4. Perused the records. Heard arguments.

5. The suit is one for the the relief of partition and separate possession. Though the issues are framed the evidence is not yet commenced. Therefore, there is no impediment to allow the IA. Moreover by the amendment the plaintiffs want to include some more properties in the suit schedule. The inclusion of some more properties in the suit schedule will not change the nature of the suit. Therefore, there is no impediment to allow the IA. Hence, the following:

ORDER

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

The plaintiffs shall amend the plaint and furnish amended plaint.

Senior Civil Judge & JMFC, Sedam.

12.11.2024

Orders on IA No.3 U/O VIII Rule 9 of CPC

The plaintiffs have filed this application U/O VIII Rule 9 of CPC and sought permission to file rejoinder to written statement of defendants 1 to 4.

2. The plaintiff No.1 has sworn to an affidavit in support of IA and stated that they have filed suit the relief of partition and separate possession. The defendants have filed written statement contending that there are other lands and more lands were allotted to the plaintiffs. In earlier suit the defendants did not claim any equal partition between the plaintiffs and defendants. Now they have come with a new plea of partition in the suit lands. Therefore, the plaintiffs have to file rejoinder in details of the lands allotted to the plaintiffs and defendants 1 to 8. Hence, prays to allow the IA.

3. The defendants 1 to 4 have filed objections to Ia and contended that the application is not maintainable. The plaintiffs ought to have filed IA seeking amendment instead of present IA. The defendants have not claimed any counter claim. Therefore, the question of filing rejoinder does not arise. Hence, prays to dismiss the IA.

4. Perused the records. Heard arguments.

5. The suit is one for the the relief of partition and separate possession. The written statement of defendants 1 to 4 and contended that there was earlier partition and suit is not maintainable for partial partition. Therefore, in order to give

explanation as to the earlier partition and the properties which are alleged to be not included in the suit it is necessary to file rejoinder by the plaintiffs to the written statement of defendants 1 to 4. If the rejoinder is filed in the form of denial and explanation no harm or loss would be caused to the defendants 1 to 4. The plaintiffs have filed this application immediately after the defendants 1 to 4 filed their written statement. Therefore, there is no reason to reject the application of the plaintiffs. Hence, the following:

ORDER

The application filed by the plaintiffs U/O 8 Rule 9 of CPC is hereby allowed.

The plaintiffs are permitted to file rejoinder to the written statement of defendants 1 to 4.

Senior Civil Judge & JMFC, Sedam.

For amendment and amended plaint call on 20.11.2024.

Senior Civil Judge & JMFC, Sedam.