

**IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC  
SEDAM**

**PRESENT: SRI. VIJAYKUMAR S. JATLA**  
B.Sc., LL.B.  
**Senior Civil Judge & JMFC Sedam**

**DATED THIS THE 24<sup>th</sup> DAY OF FEBRUARY-2021.**

**O.S.No.93/2018**

**Plaintiff** : Mahadevamma and others.  
Versus  
**Defendants** : Baslingamma and others.

**Orders on I.A.No-VI U/o 8 Rule 9 of CPC filed by Plaintiff No.4**

This is an interlocutory application is filed by the plaintiff No.4 for seeking permit the LR's of plaintiff to file rejoinder to written statements of defendant No.1.

2. Advocate for plaintiff contended that, the defendant No.1 has filed written statement and have claimed that her father has executed gift deed in her favour. The Gift deed is now brought out. It has seen the light of the day till filing of written statement. No mutation is effected based on the gift deed. More over it is claimed in the gift deed that donee is the only daughter to donor. Whereas the donor had got two daughters defendant No.1 and plaintiff. Therefore the same is false and therefore it is necessary to bring

the pleading in this regard on record. While preparing chief examination affidavit, it is found that the gift deed is to be denied by way of pleadings and therefore it is now advised to file rejoinder. Filing rejoinder is necessary in order to decide the case on merit. Therefore it is necessary to allow the application. If the application is allowed no prejudice will be caused to the other side. On the other hand it will provide a chance to decide the case on merit. The Hon'ble court be pleased to allow the application and permit the plaintiffs to file rejoinder.

**3.** Advocate for defendant No.1 to 6 filed objection, the application filed by the plaintiff is not maintainable either under laws or on facts, hence it is liable to be dismissed. The case of the defendants before the Hon'ble court that, the subject matter of suit property was gifted by the late father of in favour of Basalingamma and it is also the case of the defendants before the Hon'ble court that, by virtue of gift deed the defendants have got absolute right, title over the suit property. It is the burden on the plaintiff to prove by pleadings that, the subject matter of the suit property is an ancestral property based on pleadings they have to establish right over the suit property. But the pleadings pleaded by the plaintiff are vague and further the plaintiff has not placed any material on record before the Hon'ble court that, the subject matter

of the suit property is ancestral property. There is exist the registered gift deed in favour of Basalingamma, the question of claiming the mutation and other related revenue proceedings does not have any bearing effect. Revenue records clearly shows the name of the defendant based on the valid gift deed. The application filed by the plaintiff is belated one and the same is time barred by limitation from the date of filing of written statement as the plaintiff failed to place any revenue records to disclaim right of Basalingamma over the suit property. The plaintiff is not permitted under law to discard the valid defense taken in his pleadings. The application filed by the plaintiff U/o VIII rule 9 of CPC is barred by limitation from the date of filing of written statement.

**4.** On the basis of the above pleadings and on hearing both sides, the following points arise for my consideration.

- 1) Whether the plaintiffs have made out grounds to allow I.A.No.VI?
- 2) What order?

**5.** My findings on the above points are as under:

Point No:1 : In the Affirmative.

Point No.4: As per final order  
for the following:

**REASONS**

**6. Point No.1:-** The case of the plaintiffs and defendants is as discussed above. This is a suit for partition and separate possession in respect of suit schedule properties against the defendants. This application is filed by plaintiffs for permission to file rejoinder to written statements of defendant No.1.

**7.** On perusal of plaint written statement I.A.No.VI and objections it is seen that the plaintiffs filed suit for partition and separate possession in respect of suit schedule property and defendant filed the written statement. When the matter is posted for plaintiff evidence. The present application is filed. On perusal of the reasons assigned in the affidavit the rejoinder to the written statement is necessary in order to substantiate the case of the plaintiff with effective pleadings. If the application is not allowed the plaintiffs are denied of putting pleadings in order to adjudicate at the matter effectively. If the application is not allowed it will lead to be multiplicity of the proceedings. On the other hand no harm or injury will be cause to the defendants, if the application is allowed as prayed for. The plaintiffs made out justifiable grounds to allow the I.A.No.VI U/o 8 Rule 9 of CPC. In the light of above reasons I answer Point No.1 in the Affirmative.

**8. Point No.2**:- As I have answered **point No. 1 in the Affirmative** for the foregoing reasons, I proceed to pass the following:

**ORDER**

IA-VI Under order 8 Rule 9 of CPC filed by  
the Plaintiffs is hereby allowed with no cost.

Further rejoinder to the written statement  
filed by the plaintiff is taken on record.

(Dictated to the Stenographer directly on computer and corrected by him and then pronounced by me, in the open Court on this the **24<sup>th</sup> day of February-2021**, at Sedam)

Senior Civil Judge & JMFC  
Sedam.

**(Order Pronounced in the open court  
vide separate order)**

IA-VI Under order 8 Rule 9 of CPC filed by  
the Plaintiffs is hereby allowed with no cost.

Further rejoinder to the written statement  
filed by the plaintiff is taken on record.

For issues. Call on 01-03-2021.

Senior Civil Judge & JMFC.,  
Sedam.