

Orders on IA No.7 U/O 12 Rule 6 of CPC

The plaintiff has filed this application U/O 12 Rule 6 of CPC and sought to decree the suit under order 12 rule 6 of CPC.

2. The learned counsel for the plaintiff has filed memo facts in support of the IA and stated that the plaintiff has filed the suit for the relief of partition and separate possession of his half share in the suit land in Sy.Nos.46/5 and 46/6. the plaintiff has pleaded that the suit lands are jointly earned properties of himself and his brother defendant. There is no partition. At para 6(a) of the plaint he has pleaded that there is an admission of the above fact in OS No.23/2001. In view of the above clear and categorical admission made by the defendant in the previous proceedings no other evidence is required to prove the case of the plaintiff. Hence, prays to allow the IA and decree the suit.

3. The defendant has filed objections to IA and contended that the application is not maintainable. The previous suit in OS No.23/2001 is

in no way concerned to the suit property as suit in OS No.23/2001 was in respect of land measuring 04 acres 18 guntas in Sy.No.46/8 and this suit is filed in respect of the land measuring 03 acres 18 guntas in Sy.No.46/5 and land measuring 02 acres in Sy.No.46/6. The suit properties in both the suits are different. The defendant purchased the suit property under registered sale deed dtd: 29.11.1982 out of his own income and not from the income of joint family. The plaintiff already took his share in the ancestral properties. Hence, prays to dismiss the I.A.

4. Perused the records. Heard arguments.

5. Before touching the factual matrix of the case this court find it just and proper to look into the provisions of order 12 rule 6 of CPC, which reads as under;

Order 12 Rule 6. Judgment on admissions.- (1) Where admissions of fact have been made either in the pleading or otherwise, whether orally or in writing, the Court may at any stage of the suit, either on the application of any party or of its own motion and without waiting for the determination of any other question between the parties, make such order or give such judgment as it may think fit having regard to such admissions].

(2) Whenever a judgment is pronounced under sub-rule (1) a decree shall be drawn up in accordance with the judgment and the decree shall bear the date on which the judgment was pronounced.

6. In view of the above principle of law it becomes clear that when the parties to the suit admits the facts either in the pleading or otherwise the court may passed judgment having regard to such admissions.

7. The plaint in this suit disclose that the plaintiff has filed this suit in respect of the land measuring 02 acres 18 guntas in Sy.No.46/5 and land measuring 02 acres in Sy.No.46/6 of Guntatipadampalli village Tq: Sedam. The certified copy of the plaint in OS No.23/2001 shows that one Babu Miyan and others had filed suit for declaration and injunction against the plaintiff and defendant herein respect of the land measuring 4 acres in Sy.No.46/8 of Guntatipadampalli village Tq: Sedam. The certified copy of the written statement filed by the plaintiff an defendant herein in OS.No.23/2001 shows that in the written statement the plaintiff and defendant herein pleaded that the defendants purchased land measuring 05 acres 18 guntas in Sy.No.46 under registered sale deed dtd: 29.11.1982.

8. The above discussion makes it clear that the suit land in OS No.23/2001 and the suit lands in this suit prima facie appears to be different from each other. Therefore, on the basis of the admission made in the written statement by the defendant in OS No.23/2001 this suit cannot be decreed without evidence as provided under the provisions of order 12 rule 6 of CPC. It is to be noted that at this stage prima facie it appears that the suit land in OS No.23/2001 and the suit lands in this suit are different from each other. But it is also the matter of trial and the same has to be decided only after the

trial. If the defendant succeeds to prove that the suit lands in both the suits are one and the same he will be benefited by the admissions made in the pleadings in OS No.23/2001. On the other hand if he fails to prove the same it is open for him to prove the same by leading other positive evidence. Therefore, prima facie at this stage this court is of the opinion that the suit lands in both the suits are different and hence on the basis of admission made in OS No.23/2001 this suit cannot be decreed without there being any evidence as provided under order 12 rule 6 of CPC. Hence, the following:

ORDER

The application filed by the plaintiff U/O 12 Rule 6 of CPC is hereby dismissed.

Senior Civil Judge & JMFC, Sedam.

For hearing on I.A. No.4.
Call on 07.03.2026.

Senior Civil Judge & JMFC, Sedam.