

IN THE COURT OF SENIOR CIVIL JUDGE, VIRAJPET.

OS.45/2017

ORDER ON IA.NO.VI

IA.6 is filed by the plaintiff U/O 6 R 17 of CPC to add one property in B schedule properties.

It is stated that proposed incorporation of property is the self acquired property purchased by Defendant No.7 and 8 out of hard earned money of the father of plaintiff. It is also stated that at the time of filing of suit, it could not be incorporated due to inadvertence.

The defendant No.7 and 8 have filed objection stating that application is not maintainable, the plaintiff has created story to grab the property of D7 and 8. Their father died on 18.01.2014. They have purchased said property on 02.09.2020 out of their hard earned money since they are goldsmiths and they have gold shop and they are earning good income from their business.

Heard and perused the materials on the record.

This is a suit for partition filed by the plaintiff against the defendants who are his brothers. The suit was filed in the year 2017. The plaintiff has filed the present application in the year 2022. The property to be added as Item No.14 in the B schedule which is Sy.No.21/197 was purchased by D7 and 8 on 02.09.2020 from one Usman. D7 and 8 have also produced income tax return to show that they are income tax assesseees and they have income to purchase the said property. They have also paid tax for the said property. D7 and 8 have also produced license to carry out trade. They have also produced death certificate of their father. It shows that their father died on 18.01.2014. Therefore, the application averment that D7 and 8 purchased the said property out of money of their father does not hold good as their father died in the year 2014 itself. It is also stated in the application that due to inadvertence, the proposed property was not included at the time of filing the suit. It can

not be believed as it is far away from the truth. Because, at the time of filing suit in 2017, the proposed property was not in the name of defendant No.7 and 8 who purchased it in the year 2020. Therefore, I am of the opinion that as per the objection of the D7 and 8, the application is not maintainable. The plaintiff has not made out the grounds to allow the application. Therefore, IA.6 is dismissed with cost of Rs.500/-.

For P/E finally.

Call on 24.02.2023.

Senior Civil Judge,
Virajpet.