

ORDERS ON I.A.No.2

The Counsel for Plaintiff has filed the present I.A No.2 under Order 6 rule 17 r/w Sec.151 of CPC, praying to permit him to amend the Plaint, by including the Application Schedule Amendment, to the Plaint.

In the Affidavit appended to the said Application, the GPA Holder of the Plaintiff has sworn stating that, his father has filed this Suit against the Defendants for the relief of Declaration of Title and vacant possession and such other reliefs. He has not properly instruct his Counsel at the time of filing of the case and due to lack of legal knowledge and typographical mistake. He has a prima-facie case and it is necessary to amend the Schedule and prayer. He will be put to much hardship and inconvenience, if the Application is not allowed. The Defendants are not going to suffer in any manner, if the Application is allowed. Hence, it is prayed to allow the present Application.

On the other hand, the Counsel Defendant No.1 has filed objections to the said I.A.No.2, stating that, the Application filed by the Plaintiff is not maintainable, either in law or on facts. The GPA Holder of the Plaintiff has sworn to false Affidavit. The averments made in Para No.1, 2, 3 of the Affidavit are all hereby denied as false and incorrect and the Plaintiff is directed to put to strict proof of the same. The Plaintiff has not made out any grounds to allow this Application. The Plaintiff has come up with this Application at a belated stage, when the case was posted for cross of PW.1. The GPA Holder of the Plaintiff has been examined as PW.1 and got marked documents on behalf of the Plaintiff. Hence, it is prayed to reject the Application.

Heard both the Counsels and perused the materials available on record.

It is to be seen that both parties have to be given equal opportunities to put-forth all of their contentions. Further, if the same is not allowed, then the Plaintiff will be put to hassles. Further, if the Plaintiff is not allowed to amend the Plaint, then, it will be difficult to answer all the real questions in controversy. Hence, it is imperative to allow the said Application. Further, it is to be seen that both parties should be given equal opportunities to put forth their contentions. The rights of the parties should not be curtailed only because of technical reasons and both the parties should be given equal opportunities. Both are entitled to put-forth their contentions. Further, multiplicity of proceedings and delay in dispensation of justice should be avoided. Hence, this Court feels that an opportunity should be given to the Plaintiff to put-forth all his contentions. Further, the other side will always have an opportunity to rebut the contention of the Plaintiff. Further, it is for the Plaintiff to prove all of his contentions. Hence, for all of the reasons mentioned above, this Court feels that the present Application deserve to be allowed.

In view of the above discussions and deliberations, this Court proceeds to pass the following;

ORDER

The I.A.No.2 under Order 6 Rule 17 r/w Sec.151 of CPC, is hereby allowed on cost of Rs.100/-.

For amendment, call on by 17.09.2024.

I Addl. Civil Judge & JMFC,
Malur.