

Orders on IA.No.21

The plaintiff filed I.A.No.21 U/o 6 Rule 17 of C.P.C. and prays to permit the plaintiff to carry out the amendment as proposed in the application.

2. The application is also support by an affidavit sworn to by the plaintiff No.1(a) by name Somanna.

3. On the contrary the learned advocate for defendant No.1 to 4 and 6 filed objections and prays to dismiss the application.

4. Heard, perused the materials placed on record.

5. The following points arise for my consideration:

1) Whether the I.A.No.21 filed by the plaintiff No.1(a) U/o 6 Rule 17 R/w section 151 of C.P.C. is deserves to be allowed ?

2) What order ?

6. My answers to the above points are as follows:

Point No.1 : As affirmative.

Point No.2 : As per the final order for the following:

REASONS

7. **Point No.1** :- The learned advocate for plaintiff No.1 (a) contended that due to oversight the plaintiff could not mention all the schedule properties in the plaint, the plaintiff is a uneducated person, as such has not given proper instructions. The house property

which is now sought to be included was left out. In order to adjudicate the matter in issue proposed amendment is very much essential. If the application is not allowed, the plaintiff will be put to irreparable loss and injury. Hence, prays to allow the application.

8. On the other hand the learned advocate for defendant No.1 to 4 and 6 contended that application is not maintainable either in law or on facts and the same is liable to be dismissed in limine. The property now sought to include is not supported with any document. The case is set-down for cross-examination of DW.1. At this belated stage the plaintiff filed the present application. Hence, prays to dismiss the application.

9. It is pertinent to note that it is pleaded by the defendants that the suit is not maintainable for partial partition. In that regard it is necessary to include all the properties in order to adjudicate the dispute between the parties completely and effectively. Hence, I answer Point No.1 as affirmative.

10. **Point No.2** :- In view of my findings of point No.1 as affirmative, I proceed to pass the following:

ORDER

I.A.No.21 filed by plaintiff No.1(a)
U/o 6 Rule 17 R/w section 151 of C.P.C. is
hereby allowed.

For amendment call on 03.04.2020.

**Sd/-
JUDGE,
Addl. Court of Small Causes,
MYSURU.**

O.S. 109 / 2014