

ORDER ON I.A.27

L/c for plaintiff has filed this I.A. U/o 6 Rule 17 of CPC seeking for amendment of plaint.

In the affidavit the P.A. holder of plaintiff by name N. Sundar submitted that the plaintiff recently came to know that the defendant No. 1 got mutation of 1 acre 1 guntas in his name pertaining to item No. 1 of suit 'C' schedule property. The aforesaid property is the ancestral property of the plaintiff. Further submitted that it is very much necessary to amend the plaint 'C' schedule property. Hence prays to allow the application.

On the other hand the defendant No. 2 to 5 filed objection and contended that the plaintiff one or the way drag on the proceedings by filing unnecessary application before the court. Hence, prays to dismiss the application.

Heard both side. Perused material on record.

The following points arise for my consideration:-

i) Whether the plaintiff made out ground to allow the application?

ii) What order?

My answer to the above points are as follows:

Point No. i :- In the affirmative.

Point No. ii :- As per the final order for the following:

REASONS

Point No. i :- The plaintiff sought for amendment in the application is as follows “proposed amendment to the item No. 1 of schedule ‘C’ of the suit property in between the words “measuring 1.02 guntas” and “situated at” the following to be incorporated” and land 1.01 guntas (total measuring 2 Acre 03 guntas).

It is to be noted that the plaintiff filed this suit for partition and separate possession of suit schedule properties. When such being the case it is well settled principle of law that in a suit for partition, all the joint family properties should be included and all the members of the joint family should be made parties to the suit. Further more the defendant No. 2 to 5 no where in the objection have denied that the R.T.C in respect of item No. 1 ‘C’ schedule property to an extent of 1 acre 1 guntas got mutated in the name of defendant No. 1.

Therefore I am of the considered view that, since the suit is one for the

partition and separate possession the amendment sought by the plaintiff will not change the nature and subject matter of the suit. Hence, no prejudice will cause to the defendants if application is allowed. Thus for all these reasons **point No. i** answered in the **Affirmative.**

Point No. ii :- In view of aforesaid reasons I proceed to pass the following:

ORDER

I.A. No. 27 filed U/o 6 Rule 17 of CPC is allowed on cost of Rs. 500/-.

Call to carried out amendment and to furnish amended plaint call on 09.06.2023.

Sd/-
Judge,
Court of Addl. S.C., &
Mysuru