

ORDER ON IA NO.XIV

01. The applicants/defendant no.1 & 2 filed IA No.XIV under Order VI Rule 17 read with section 151 of CPC seeking for amendment in the WS about the inclusion of the facts that the plaintiffs are not in the suit schedule property and thus the prayer for the relief of permanent injunction is not maintainable and so also there is no cause of action to maintain the suit.

02. Perused the plaint, WS and also the proposed amendment. The proposed amendment which is sought to include pleadings that the present suit for the relief of permanent injunction is not maintainable in the present for has the plaintiffs themselves have claimed for the relief of recovery of possession and there is no cause of action to maintain the suit, the proposed amendment will not change the nature of suit and also will not change the cause of action or allowing of application will not cause any prejudice to the plaintiffs. On the other hand it is just necessary for the just decision of the case. It is well-settled legal principles that, courts must be liberal in allowing the applications for amendment of pleadings, especially in case of pre-trial amendments. This proposition finds support from the ratio laid down by **Supreme Court in 2007 SAR (Civil) 837 (Narain Prasad Aggarwal (D) by LRs. V/s. State of MP.)**

“(D) Pleadings – Ordinarily, Mofussil pleadings are not to be strictly construed-Pleadings must be construed as a whole”

04. The present application is filed even before the commencement of the trial. Hence I am of the opinion that IA No.XIV can be allowed. Hence I proceed to pass the following;

ORDER

IA No. XIV filed by the applicants/defendants under sec 151 CPC and Order VI, Rule 17 read with section 151 of CPC is allowed on cost of Rs.200/- .

The defendant no. 1 & 2 are permitted to amend the WS as sought in IA No.XIV.

Call on: 25.01.2023

(Dictated to the Stenographer directly on computer, corrected and then pronounced by me in the open court on this the day of 18th day of January 2023)

(NATARAJ YADAV.S)
Senior Civil Judge & JMFC
H.D.Kote