

ORDER ON I.A.No.VII

1. Vide this order I shall dispose of an application under order 1 Rule 10 of CPC moved on behalf of the plaintiff to implead the proposed defendants as defendant no. 13 & 14 in the present case.

2. Vide the instant application it is the contention of the plaintiff that he has filed the suit against the defendants for partition and separate possession. The defendant no. 1 executed a registered relinquishment deed dated 08.12.2020 in favor of his son namely Sachin.N.C i.e., proposed defendant no. 13 in respect of question of item no.7 of the suit schedule property. Similarly defendant no.2 had executed registered gift deed dated 06.08.2019 in favor of her daughter namely Savitha i.e., proposed defendant no.14 in respect of item no.2 of the suit schedule property. On the basis of the said documents they are claiming ownership over the item no.7 & 1 of the suit property. The proposed defendants were not made as parties to the suit due to the oversight. As the execution of the relinquishment and gift deeds are in challenge and the proposed defendants are parties to the said deeds. The present suit being for partition and separate possession and for a declaration to effect that relinquishment and gift deeds sale deed not binding on the plaintiffs all the parties who are parties to the relinquishment and gift deeds and having interest in the suit property are necessary and proper parties. In order to decide the dispute between the suit of the parties effectually and finally the presence of the proposed defendants is necessary. On these grounds prayer is made to allow the application.

3. On the other hand the proposed defendants have not filed reply.

4. Arguments heard on behalf of plaintiff, defendants and proposed defendants.

5. The suit of the plaintiffs is for partition and separate possession and declaration to the effect that relinquishment and gift deeds not binding on the plaintiffs. According to the plaintiff, the proposed defendants are the children of defendant no. 1 and they claimed as exclusive owner of portion of item no.7 and item no.2 of the suit schedule property respectively by virtue of the relinquishment and gift deeds executed by their father in their favor . The present suit being filed for partition and separate possession and declaration to the effect that relinquishment and gift deeds not binding on the plaintiffs, all the persons having direct interest in the subject matter of the suit has to be arrayed in the suit. The proposed defendants have not denied that they are parties to the relinquishment and gift deeds. In order to decide the dispute between the parties effectually and finally, the presence of proposed defendants is necessary. Moreover, the judgment binds and affects the rights of the proposed defendants. In the light of the above discussion I proceed to pass the following;_

ORDER

I.A.No.VII filed by applicant under order I Rule 10 read with section 151 of Civil Procedure Code is hereby allowed and no order as to the cost.

In the result the proposed defendants are hereby impleaded as defendants no. 13 & 14 in the present suit.

Plaintiff is directed to carryout necessary amendment in the plaint and furnish amended plaint.

Call on: 16.03.2022.

(Dictated to the Stenographer directly on computer, corrected and then pronounced by me in the open court on this the day of 2nd day of March, 2022)

Senior Civil Judge & J.M.F.C
H.D Kote