

Order on I.A.No.III

1. The present application I.A.No.III is filed by the defendants U/O 6 Rule 17 of CPC praying for an order to permit the defendants to carryout the proposed amendment to their written statement.

2. The said application is supported by the affidavit of the defendant No.1 and it is sworn that, when the defendants have filed their written statement due to oversight, they have not pleaded the date of sale deed and other relevant facts. It is further sworn that the proposed amendment is very much necessary to prove the defence of the defendants and if the application is allowed no hardship would be caused to the plaintiff. Hence prayed to allow the application.

3. The plaintiff counsel has filed objection to the application and it is stated that the defendants by creating false documents, in order to cause loss and hardship to the plaintiff has filed present application. It is further stated that the defendants cannot file the present application at this stage and the defendants to make unlawful gain have filed the present application. Hence prayed to reject the application.

4. Heard the arguments of counsel for both parties.

5. The points that arise for consideration of this court are as under;

Point No.1. Whether the defendant No.1 has made out sufficient grounds to permit him to carryout amendment as stated in the application?

Point No.2. What order?

6. The findings of this court on above points are as under:

Point No.1:-In Affirmative

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

REASONS

Point No.1:

7. The defendants have filed present application to permit them to carryout amendment as stated in the application. On perusal of the proposed amendment, the defendants intends to state that the item No.1 and 2 of schedule properties were purchased by defendant No.1 through Registered Sale Deed dated 06.12.2010 and therefore the said properties are the self-acquired properties of defendant No.1. The defendants have filed their written statement and have taken up the defence that suit schedule properties are not the joint family properties. Now the defendants intends to state that the item No.1 and 2 of schedule properties are the purchased properties of defendant No.1 and the said properties are his self-acquired properties. The present application is filed when the case is adjourned for cross-examination of PW-1. The defendant No.1 by swearing the affidavit has stated that due to oversight, the proposed amendment is not stated in the written statement. The proposed amendment will not change the nature of the suit or it will create any new cause of action. The proposed amendment is very much necessary to prove the defence of the defendants. The objection raised by the plaintiff is not sustainable. Hence for the said reasons, this court answers Point No.1 in Affirmative.

Point No 2:

8. For the reasons discussed above, this court proceeds to pass the following:

ORDER

The application I.A.No.III U/O 6 Rule 17 of CPC filed by the defendants is hereby allowed.

The defendants are hereby permitted to carry out proposed amendment to their written statement as stated in the application.

No order as to cost.

For amendment and amended written statement

Call on: 06.03.2024

(Dictated to the Stenographer, transcribed by him on computer, revised, corrected and then pronounced by me in the open Court on this the 21st day of February, 2024)

**(Sandesh Prabhu. B)
Senior Civil Judge & J.M.F.C
H.D.Kote**