

ORDER ON I.A.NO.IX

1. Vide this order I shall dispose off an application filed by the plaintiffs under O. 6 R.17 r/w Sec.151 of C.P.C. The affidavit has been filed along with application.

2. Brief facts necessary for the disposal of the present application are that the plaintiffs filed a suit for partition and separate possession. It is stated that at the time of filing of plaint due to the inadvertence and lack of knowledge the item no. 2 of the suit schedule property has been mentioned twice in the schedule of the plaint. The said mistake has been recently noticed by the counsel of plaintiffs. In the case on hand it is necessary to seek for the proposed amendment for proper adjudication of the matter and more so if the said mistake is left uncorrected it causes lot of confusion to the court. Hence, prayed to allow the application.

3. On the other hand, the defendants have not filed reply to the said application.

4. I have heard the rival contention of the parties and have perused the records.

5. On a bare perusal of Order VI Rule 17 CPC, it becomes abundantly clear that wide power has been conferred on the court to allow amendment of the pleadings of a party in such manner and on such terms as it appears to the Court just and proper. It is a well-settled law that courts should be liberal in granting the prayer for amendment of pleadings unless serious injustice or irreparable loss is caused to the other side and a hyper technical approach should not be adopted. All amendments should be permitted which are necessary for determination of real controversies in the suit.

6. Applying the above stated legal principles to the facts of the present case, I am of the said opinion that the amendment sought by the plaintiffs is necessary for a proper adjudication of the present case and to prevent multiplicity of litigation. The plaintiffs by way of the present application seek to delete the item no. 2 of suit schedule property as it was mentioned twice in the schedule of the plaint due to the inadvertence and typographical error. In these circumstances, it is clear that the inclusion of the proposed amendment is not going to change the nature of the suit or take away the legal rights of the plaintiffs or other defendants. More so if the said proposed amendment is not allowed, it leads to the confusion. Therefore it is just and necessary to permit the plaintiffs.

7. Furthermore in the case at hand, the suit is at the nascent stage. Hence, the court is of the view that no injustice or prejudice of an irremediable character would be inflicted on the defendants, which cannot be compensated in terms of money.

8. For the delay that has occasioned due to this error, the defendants can be compensated in monetary terms.

9. In the case of Vishwa Nath & Anr. Vs. Chaman Lal Khanna & Anr., AIR 1975 Delhi 117, the Hon'ble High Court of Delhi observed

"The courts do not punish the litigants for the mistakes they make. Courts of law are not Court of penal jurisdiction. They exist for the sake of doing justice".

10. In these circumstances, the application under Order 6 Rule 17 read with Section 151 of Code of Civil Procedure is allowed subject to

payment of costs of Rs. 200/- by the plaintiffs to the defendants by the next date of hearing. Hence, I proceed to pass the following;

ORDER

I.A. No.IX filed by applicants/plaintiffs under order 6 Rule 17 read with section 151 of Civil Procedure Code is hereby allowed on cost of Rs.200/-.

For carrying out the amendment and to furnish the amended plaint.

Call on:24.03.2023

(Dictated to the Stenographer directly on computer, corrected and then pronounced by me in the open court on this the day of 04th day of March 2023)

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