

ORDERS ON IA No.VII

The 2nd plaintiff filed application on IA No.VII under Order 6 Rule 16 R/w Section 151 of CPC and prays for strikeout the pleadings of the defendants at para No.7 of the written statement.

2. In the affidavit which enclosed to IA No.VII the plaintiff has stated that, he filed suit for relief of declaration and permanent injunction with respect to suit schedule property.

3. On the other hand, the defendant No.7 taken plea that, one Jayamma and Ramalingachari are the owners of the property bearing Sy.No.64/1 measuring 36 guntas. But, he has not produced any documents in support of his pleadings. Therefore, in the absence of documents, the pleadings of defendants cannot be considered. Accordingly, he prays for allow the application.

4. On the other hand, the defendant No.7 filed objection and contented that, the application filed by the plaintiff is not maintainable and the defendant No.7 taken specific plea that, he was purchased the property under unregistered sale deed and his name entered in the revenue records. Therefore, the application filed by the plaintiff is not maintainable for the reason the application does not satisfy the essential ingredients contemplated under Order 6 Rule 16 of CPC. Hence, he prays for reject the application.

5. Heard and perused the records.

6. The following points that would arise for this court consideration is:

1. Whether the plaintiff No.2 has made out sufficient grounds to allow the application?

2. What order or decree?

7. My findings on the above points are as under:

Point No.1: In the Negative

**Point No.2: As per final order,
For the following:**

R E A S O N S

8. **Point No.1:-** From the pleadings of both parties it is noticed that, the plaintiffs have filed a suit against defendants for the relief of declaration and consequential relief for permanent injunction.

9. On the other hand, the defendant No.7 filed written statement and denying the case of the plaintiffs and he has also claimed counter claim with respect to the schedule property.

10. On the basis of pleadings, this court framed issues and posted for plaintiff's evidence. Further the record shows that, the plaintiff has filed notice under order 12 Rule 8 of CPC calling upon the defendants to

produce the documents. On the other hand, the defendant No.7 filed memo stating that, the unregistered sale deed dated 12.05.1976 is not available. After that, the present application was filed. Before considering the rival claimants of the parties, this court reproduce the provision of 6 Rule 16 of CPC which reads as under;

16. Striking out pleadings:- The Court may at any stage of the proceedings order to be struck out or amended any matter in any pleading:-

(a) which may be unnecessary, scandalous, frivolous or vexatious, or

(b) which may tend to prejudice, embarrass or delay the fair trial of the suit, or

(c) which is otherwise an abuse of the process of the court

11. On plain reading of the above provision it makes clear that, the court may at any stage of the proceedings order to the struck out or amended any matter in the pleading which may be unnecessary,

scandalous, frivolous or vexatious pleadings.

12. In the present case on hand, the defendant No.7 taken defence that he has purchased the property under unregistered sale deed and in pursuance of the said sale deed, the katha of the property was changed into his name.

13. It is well settled that, paragraph of pleadings cannot be struck off on the ground of non-disclosure of material which is sufficient to the rise to the cause of action. In the absence of finding that, those pleadings are either unnecessary or may tend to prejudice, embarrass or delay the fair trial, the pleadings cannot be struck off.

14. In the present case on hand, the plaintiff taken ground that, there is no documents in support of defence of the defendant. But, the application

filed by the plaintiff is not maintainable for the reason the plaintiff has not satisfy the ingredients contemplated under Order 6 Rule 16 of CPC. Hence, the application filed by the plaintiff is no merits. **Accordingly, point No.1 is answered in the Negative.**

15. **Point No.2:-** For the reasons stated above, this court proceed to pass the following:

O R D E R

The application filed by the plaintiff No.2 under Order 6 Rule 16 R/w Section 151 of CPC is rejected.

For plaintiff's evidence by:
23.08.2024.

**Senior Civil Judge & JMFC,
K.R.Nagar.**