

OS 461/12
06/09/2017

ORDERS ON APPLICATION U/O 6 RULE 17 OF CPC

The above application filed by the plaintiff prayed to permit him to amend the plaint. Plaintiff sworn to affidavit accompanying application stated that, the father of the plaintiff and defendant No.5 have entered into registered partition deed 09/11/1953. Under the partition the plaintiff's father Venkategowda acquired two acre 39 guntas in survey No.1/1. Thereby prayed to amend the plaint seeking relief of declaration of title.

The defendant No.5 filed the objections to the above application, the plaintiff and other defendants have no rights over the properties, which was standing in the name of defendant No.5. The proposed amendment is allowed, it will change the nature of the suit. Hence, prayed to reject the application.

Heard and perused the same.

On careful perusing the plaint, this is a suit for partition and separate possession of the suit schedule property against the defendant No.1 to 4. Subsequently the

defendant No.5 to 7 have been impleaded to amendment. On perusing the order sheet, several times the plaint has been amended. The plaint has been amended on 15/12/2014 added plaint para No. 4(a) to (c). Again the plaint has been amended on 10/12/2015. On perusing the plaint in para No. 4(a) to (c), the plaintiff categorically stated that, the father of the plaintiff acquired the item No.2 of the suit property through registered partition deed dated 09/11/1953. Again the plaintiff seeking relief of the declaration against the defendant No.5 in respect of item No.3 of the suit schedule property. If the same is permitted, the cause of action and nature of the suit will be changed. This is a suit for partition between the family members. The defendant No.5 to 7 have subsequently impleaded in the suit. The plaintiff also added prayer No. D to F through amendment. Prayer No. D pertaining to the partition deed dated 09/11/1953.

The plaintiff has already amended the plaint several times. Again the plaintiff come up with similar application after commencement of trial. The plaintiff has not assigned any valid reason to allow the

application. The case is pending since 2012. Hence, application filed by the application is not maintainable. Accordingly, I proceed to pass following:

ORDER

Application U/o 6 Rule 17 CPC is hereby rejected.

Cross-examination of PW.1 as a last chance, 16/09/2017.

(Srinath K.)
Principal Civil Judge
and JMFC., K.R.Nagara.