

Orders on I.A.No.XII

The plaintiffs have filed I.A.No.XII u/Order VI Rule 17 of CPC seeking permission to amend the plaint as prayed for in the application.

2. In support of the application, the plaintiff No.1 has sworn to an affidavit and stated that, she and her younger sisters have filed this suit against the defendants for the relief of partition and separate possession in respect of suit schedule properties. During the pendency of the suit, the plaintiffs came to know that, defendant No.5 to 7 have sold suit schedule Item No.1 property bearing Sy.No.90 measuring 2 acres 7 guntas to defendant No.8 through registered sale deed dt 10.06.2019 without their knowledge. The said sale deed does not bind the rights of the plaintiffs over the suit schedule Item No.1 property. The plaintiffs by filing I.A.No.XII seeks permission of the court to insert para No.10 to the plaint and also seek one more relief that, the sale deed dt 10.06.2019 executed by defendant No.5 to 7 along with their family members in favour of defendant No.8 in respect of suit item No.1 does not bind on their rights and shares. Accordingly, plaintiffs pray to allow the application.

3. Learned counsel for the defendant No.8 Sri. B.Y. submits that, I.A.No.XII may be allowed on costs.

4. Heard and perused.

5. The present suit is for partition and separate possession. It is the case of plaintiffs that, suit properties are ancestral properties of father of the plaintiffs and defendant No.1 to 3. The plaintiffs have

produced the copy of sale deed dt 10.06.2019, same discloses that, defendant No.5 to 7 along with their family members sold suit item No.1 to defendant No.8 during the pendency of the suit. Hence, the proposed amendment as sought for in I.A.No.XII is necessary to adjudicate the matter. Further, the said proposed amendment is not contrary to the earlier pleadings.

6. The object of Order VI Rule 17 of C.P.C. is that, the courts should try the merits of the cases that come before them and should consequently allow all amendments that may be necessary for determining real question in controversy between the parties provided it does not cause injustice or prejudice to other side. It is well settled that while deciding an application for amendment of pleading, ordinarily the court should not refuse bona fide, legitimate, honest and necessary amendment. Conversely, it should not allow mala fide, dishonest or unnecessary amendment. Mere amendment to the plaint would not prove the case of the plaintiff. It is for the plaintiffs to prove their case by leading cogent evidence. Under the above facts and circumstances of the case, this court is of the opinion that I.A.No.XII filed by plaintiffs deserves to be allowed. Hence, I proceed to pass the following:-

:- O R D E R :-

I.A.No.XII filed by the plaintiffs u/Order VI Rule 17 of CPC is hereby **allowed on cost of Rs.200/-**.

The plaintiffs are permitted to carry out the amendment to the plaint as prayed for and to furnish amended plaint, call on 04.03.2023.

I Addl. Civil Judge & JMFC.,
Nanjanagudu