

ORDERS ON MEMO

The counsel for defendant no.1(B) filed memo to issue summons or notice to the defendants of the counter claim which was filed by the defendant no.1(B) in her written statement in the interest of justice and equity.

Heard the counsel and furnished the memo with citations.

After going through the records, the plaintiff has filed the suit for partition and separate possession against defendant no. 1 to 13. During the pendency of the suit, some of the defendant no. 1 and 7 were dead and their LR's were brought on record. The defendant no. 1B has filed written statement along with counter claim. Later the defendant no.1b filed IA.No.33 to delete the defendant no.9, 11 to 13 in her counter claim. Now the defendant no.1b filed this memo. In the said cause title of counter claim, the ranks of the original suit was shown in the counter claim and all the parties in the counter claim are parties in original suit.

The defendant no.1(b) relied the decisions as per separate memo. After going through the same the said decisions are in

respect of adding of other parties in respect of counter claim who are not parties to the suit. But the present memo is not in respect of adding of parties. Hence under such circumstances the said decisions are not applicable to the present case on hand.

Hence issuance of notice or summons does not arise. Hence, considering the same, all the parties shown in the counter claim as plaintiff and defendants are the parties in original suit. Hence, under such circumstances, no need to issue notices or summons once again in a counter claim. hence memo filed by the defendant no. 1b is hereby rejected.

**Senior Civil Judge and J.M.F.C.,
Devadurga.**