

IN THE COURT OF THE SENIOR CIVIL JUDGE & J.M.F.C.,
DEVADURGA

Present:
Sri.Hanumanth Satwik.,LL.M,
Senior Civil Judge & JMFC, Devadurga.

O.S.No.121/2022

DATED : THIS THE 15th DAY OF SEPTEMBER 2023

Plaintiffs: 1. Mallikarjun Patil S/o. Hampanna Patil.

(By Sri.V.M.M, Advocate)

--V/s--

Defendant: 1. Hampanna S/o. Late Yankappa Patil
and others.

(D.1 to 3 by Sri.A.M.P.Advocate)
(D.4 & 5 by Sri.B.S.Advocate)

Provision under which the application is filed	U/o.VIII Rule 6-A(3) and 9 R/w.Sec.151 of C.P.C.
Relief sought for	Rejoinder application.
The date on which the application is filed	24.06.2023
Number of the application	IA.No.IV
The date on which the objections are filed by different opponent	10.07.2023
The date on which the orders were passed on the said application	15.09.2023

**Senior Civil Judge & JMFC.,
Devadurga.**

ORDER ON IA NO.IV

The present suit is for partition and separate possession.

2. The present application has been filed by the plaintiff praying this court to permit to him to file rejoinder to the written statement filed by defendant no.4 and 5. It is the case of the plaintiff that defendant no.4 and 5 in their written statement made false allegations against him and they took new grounds. He intends to deny the case of defendant no.4 and 5. In this regard, plaintiff prays as above.

3. Defendant no.4 and 5 in their objections contended that the present application is not maintainable. The burden is on the plaintiff to prove the relationship and the nature of the suit schedule properties to be the ancestral properties. There is no provision in CPC to file rejoinder. They did not seek counter claim. The plaintiff intends to patch up the lacuna in his case. In this regard, defendant no.4 and 5 pray to reject the application.

4. Heard arguments of counsel.

5. Considering the contention of both the parties following points arise for my consideration.

1. Whether the plaintiff has made out sufficient grounds to permit him to file rejoinder as sought for?
2. What order?

6. My finding for the above points are as follows

Point No.1 : In the affirmative
Point No.2 : As per final order
for the following ;

REASONS

7. **Point No.1:-** It is the case of the plaintiff that defendant no.4 and 5 in their written statement made false allegations against him and they took new grounds. He intends to deny the case of defendant no.4 and 5. In this regard, I have perused the rejoinder intended to be filed by the plaintiff. Be it stated, by way of rejoinder the plaintiff is denying the contentions of defendant no.4 and 5. Further, in the rejoinder, the plaintiff clarified the said contentions of defendant no.4 and 5. This being the case, there is no impediment to permit the plaintiff to file rejoinder to the written statement of defendant no.4 and 5. Further, denying plaintiff the opportunity to file the rejoinder will prejudice the plaintiff. In these circumstances, in view of the decision of Hon'ble High Court of Karnataka between Krishnamurthy V/s. Hanumakka and others cited in ILR 2019 KAR 4977, I am of the view that, the plaintiff has made out sufficient grounds to permit him to file rejoinder. Accordingly, I answer point no.1 in the affirmative.

8. **Point no.2:-** In view of reasons on point No.1, I proceed to pass the following,

O R D E R

IA No.IV filed by the plaintiff is hereby allowed on cost of Rs.100/-.

The plaintiff is permitted to file rejoinder to the written statement of defendant no.4 and 5.

(Dictated to the Stenographer, typed by him corrected by me and then pronounced in the open court on this the 15th day of September 2023.)

(Hanumanth Satwik)
Senior Civil Judge & JMFC.,
Devadurga.