

**IN THE COURT OF THE PRL. SENIOR CIVIL JUDGE AND
CJM AT RAMANAGARAM**

Dated : This the 06th day of July 2020

Present

Sri. N.S.Kulkarni.,
B.Com., LL.B Spl.,
Prl. Senior Civil Judge & CJM.,
Ramanagara.

O.S 263/2013

Plaintiffs:- Sri. Sukumara and others

(By Sri. B.N., Advocate)

V/s

Defendants:- Sri. H.K.Harish and others

(D.1 Sri. T.R.G., Advocate)

* * * * *

Orders on I.A dated 24.07.2019
filed by the plaintiffs
U/o 6 Rule 17 r/w Section 151 of CPC

The plaintiffs have moved this application to amend the plaint as mentioned in the above said application.

2. In the affidavit appended to the application the plaintiff deposed that, the defendants after receipt of the suit summons, they put their signature and filed their defense and contended

that, portion of the land in suit survey number has been sold by the 1st defendant along with his minor children to the 2nd defendant on 29.10.2005, which has been allegedly registered in Ramanagara to the extent of 8 acres on 08.11.2006. After the defendant has filed the written statement by making necessary application impleaded the 2nd defendant who was not a party to the same. Hence, sale deed does not bind by the plaintiff. Hence, the amendment is necessary. Accordingly, it will not change the cause of action, nature of the suit and defendant will not be put to any hardship. Hence, he is prayed to allow the application.

3. The defendant No.1 has filed objection to the said application is that, the application is not maintainable either in law or on facts on the ground that, the plaintiff was having knowledge prior to the filing of the suit and has not sought proper relief. Hence, the application is baseless and the present amendment is not maintainable. The previous purchaser myciti have earlier sold extent of 4 acres 8 guntas in the suit Sy.No.12/1 through registered sale deed dated 05.08.2008 and 4 acres out of Sy.No.12/1 through registered sale deed. Hence,

they are all necessary parties and proper parties. Hence, plaintiff has got knowledge has these transactions. He has not taken proper relief. Hence, filed the false suit. The present amendment will alter and change the nature of the case and new case is being introduced which will prejudice the defendant. The case is posted for evidence. Hence, to delay the proceedings he has filed this application. If the application is dismissed, no hardship will be caused to the plaintiff. On the other hand, more hardship will be caused to this defendant. Hence, prayed to dismiss the application.

4. The defendant No.2 is placed exparte as he remained absent to the impleding application and also to the amendment plaint.

5. Now, the following point emerge for consideration:-

Whether the application deserves to be allowed ?

6. Having heard the arguments of both the counsels, the court scrutinized the application in the backdrop of pleadings of the parties and the

objection statement raised against the same. Now, finding of the Court on the point is in the “Affirmative” for the following:-

REASONS

7. On perusal of the plaint, written statement, application and objection. It is the case of the plaintiff that, he is the owner and possession and to declare him as owner and injunction. It is the case of the plaintiff that, the defendant No.1 has sold the property to defendant No.2 with his children. Under these circumstances, the defendant No.1 has also admitted the sale transaction but stated that, plaintiff was aware of the transaction and has not prayed proper relief. Hence, application is not maintainable. Under these circumstances, the defendant No.2 was made as a party and remained absent. So, the amendment sought by the plaintiff against the defendant No.2 is proper as defendant No.1 has admitted the sale transaction and it will not change the nature and cause of action. Moreover, there is a registered sale deed in favour of defendant No.2. So, the prayer is that, the plaintiffs are the absolute owners and for injunction. But, the amendment

sought is sale deed is not binding is not correct. The plaintiff is permitted to amend the plaint by inserting the prayer is that, to declare the sale deed as not binding and he has to challenge the sale deed by paying proper court fee. Hence, no hardship will be caused to defendant if it is allowed. However, for the delay in filing the application at the time of evidence, the plaintiff has to pay the cost of Rs.1,000/-. As such, I am inclined to hold the point is in the “Affirmative” and proceed to pass the following

ORDER

I.A dated 24.07.2019 filed by the plaintiff U/o 6 rule 17 r/w Section 151 of CPC is allowed with cost of Rs.1,000/-.

The plaintiff has to amend the plaint seeking the prayer to challenge the sale deed and to declare it as null and void and has to pay the court fee.

(Dictated to the Stenographer directly on computer, corrected by me and then pronounced in the open Court on this the 06th day of July 2020)

**Prl., Senior Civil Judge & CJM,
Ramanagara.**