

Date: 28-06-2014

An application is filed by the plaintiff under Section 151 of CPC to amend the plaint by adding item No.10 to 14 as shown in the application. The plaintiff has also filed another application to bring the proposed LRs on record as defendant No.7.

2. In the annexed affidavit, the plaintiff has stated that this suit is filed for the relief of partition and separate possession. Initially certain properties were shown in the plaint but certain properties were purchased by defendants 2 and 3 out of joint family funds. Therefore, those properties are now to be included in the plaint for partition. The application is a bonafide one but now hardship or injury would be caused to the other side if the application is allowed. Hence, it is prayed to allow the amendment.

3. The plaintiff has further stated that the proposed defendant has got a gift deed by the 2nd defendant and proposed defendant is the wife of the 2nd defendant. Item No.14 has been gifted and therefore the proposed defendant is a necessary party to this proceedings and hence prayed to allow the application.

4. To these two applications Sri.K.M.M., has filed objections but the proposed defendant has not filed any objections to the impleading application.

5. Heard the arguments and I have perused the records. The proposed amendment is only with a prayer to include 4 more properties in the plaint schedule which is a formal amendment and as this suit is for partition, all properties will have to be included in the same proceedings. But, the proposed defendant is neither a necessary nor a proper party because the plaintiff is claiming partition against her mother and brothers and other defendants and any gift deed alleged to have been executed by the 2nd defendant in favour of his wife does not warrant the presence of the proposed defendant as defendant 7 in this suit and I do not find any grounds to implead the proposed defendant as a party to this case. So, the application filed by the plaintiff for amendment is to be allowed but the application for bringing the proposed defendant on record is not necessary in this case. Moreover, this suit has been filed on 22-03-2012 whereas the alleged gift deed is subsequent and hence there is no need to add the proposed defendant as a party to this case. Hence, I pass the following

ORDER

The application filed by the plaintiff under Order VI Rule 17 CPC is hereby allowed on cost of Rs.300/-.

The application filed by the plaintiff under 1 Rule 10 CPC is hereby dismissed.

For amendment and for amended plaint and costs by 08-07-2014.

**Addl. Senior Civil Judge,
Ramanagara.**