

Orders on IA Order VI Rule 17 R/w Section 151 of CPC.,

The applicants/plaintiffs filed the present application seeking amendment of plaint by inserting a paragraph in the plaint and seeking the relief of declaration that, the gift deed dated:03-06-2017 is not binding on the plaintiffs and to delete the words “part of “ in page No.8, paragraph No.9, line 4.

2. As per the affidavit of the plaintiff No.3 annexed to the IA , on 03-06-2017, the defendant No.2 executed a registered gift deed in favour of her daughter the defendant No.3 in respect of item No.4 of the suit schedule properties. The said document is not binding on the plaintiffs, as the suit schedule properties are ancestral properties. That there is a typographical mistake in paragraph No.9 of plaint. The same was noticed recently and the plaintiffs were advised to file necessary application. The proposed amendment will not change nature of the suit or cause of action. If the IA is allowed defendants will not suffer hardship. If the IA is rejected the plaintiffs will suffer hardship. Hence, the application.

3. The opponent/defendant No.13 filed statement of objections. That the similar IA dated:30-10-2018 filed by the plaintiffs was dismissed on the basis of memo dated:01-08-2019. Again the same IA is filed without assigning proper reason. The IA is filed to harass the defendants. If the IA is allowed great prejudice, irreparable loss will be caused to the defendants and no hardship will be caused to the plaintiffs, if IA is rejected. Hence, the opponent prayed for dismissal of IA.

4. Heard.

5. The suit is instituted in the year 2016 for partition of the suit schedule properties and for declaration that the registered sale deed dated:06-11-2015 is not binding on the plaintiffs and for cost and other relief.

6. On 30-10-2018 the plaintiffs filed amendment application, but got dismissed the same as not pressed since there was some mistake in the said IA. Through, the present IA, the plaintiffs seek for insertion of a paragraph and another relief of declaration that the gift deed is not binding on them.

7. The case of the plaintiffs is that, the suit schedule properties are the ancestral properties. However, during the pendency of the suit, the alleged gift deed is executed. Therefore, the plaintiffs to prove their case have to seek for necessary relief. By allowing the IA, no hardship will be caused to the defendants, as the proposed amendment will not change cause of action. Hence, the following:

ORDER

IA filed by the applicants/plaintiffs under Order VI Rule 17 R/w Section 151 of CPC., is allowed costs of Rs.500/-.

The plaintiffs are permitted to carry out amendment of the plaint.

For amendment of plaint and to furnish amended plaint.

By:

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