

ORDERS ON IA No. 15 U/o 6 rule 17 of CPC.

Counsel for the Plaintiff has filed the IA No.15 U/o 6 rule 17 of CPC., seeking amendment of Plaint for the reason stated in the annexed affidavit.

In the annexed affidavit it has been sworn by the applicant that, they have brought the suit for Partition and Separate Possession and through this amendment they intend to include one more property as item No.21 based upon the defense taken in the written statement by the defendant and the same will not change the nature of the suit and will not cause any hardship to the other side on the other hand if this application is not allowed they will put to hardship. Hence, prays to allow the same.

Per contra, the counsel for defendants filed objection and contended that, application is not maintainable and there was already a partition through Panchayathi Parikathu dated 13.07.1990 and the proposed item is granted in favour of the plaintiff under Ashraya Scheme and the proposed amendment will change the nature of suit and cause irreparable damage to the defendant and the same is not permissible under law. Hence, prays to reject the same with heavy cost.

Points for consideration.

Point No.1: Whether IA No.15 is reserved to be allowed?

Point No.2: What order?

My findings:

Point No.1 : Affirmative.

Point No.2 : As per the final order for the following:

REASONS

*This is the suit for Partition and Separate Possession, through this amendment the plaintiff intend to include one more property which stands in the name of the plaintiff himself. Therefore, the proposed amendment facts are nothing but the addl. Facts which are intend to plead to the existing facts and the same are in clarificatory in nature, under these circumstances if this application is not allowed it will certainly lead to multiplicity of proceeding Hence, I answer **point No.1** in the affirmative.*

Point No.2: as per the final,

ORDER

IA No.15 U/o 6 rule 17 of CPC., filed by the plaintiff is hereby allowed.

For necessary amendment and amended plaint.

Call on 22.10.2024.

Senior Civil Judge
and JMFC., Sira.