

OS 23/2015

ORDER ON IA NO. VII.

This is an application filed by the plaintiff under the provisions of Order 6 Rule 17 r/w Sec. 151 of CPC seeking amendment to the plaint to change the name of the village of the suit property as Chittakula instead of Majali on the ground that due to over sight the name of the village of the suit schedule property is wrongly mentioned as Majali instead of Chittakula. Hence this application.

The defendant has resisted the application by filing detail objections denying the grounds urged in the application. The case is already posted for arguments. Sufficient time is already given for arguments. No application is filed at the earlier point of time. Therefore the application is not maintainable and liable to be dismissed.

I have heard the arguments on both the side and perused the record.

Now the point that would arise for my consideration is under:

Whether the plaintiff has made out sufficient grounds to allow the application?

Now my answer to the above point for consideration is in the affirmative for the following:

REASONS

The plaintiff has filed this petition against the defendants for specific performance of agreement of sale.

The defendants have resisted the suit by filing detail W/S. This court has framed the issues on 17-2-2016. The plaintiff examined two witnesses as PW1 and 2 and got the documents marked at Ex P1 to P9. The defendant got examined himself as DW1. When the case is set down for arguments on merits, this application being filed seeking amendment to the plaint.

Admittedly, the plaintiff has filed this suit for specific performance of agreement of

sale. No doubt the evidence is already closed. But from the careful perusal of proposed amendments, it is clear that the plaintiff wants to plead about the correct name of the village of the suit schedule property which is just and necessary and also essential for just decision of the case.

The proposed amendments, will not change the cause of action and nature of suit. Under these circumstances, this court is of the considered view that is this application is allowed by imposing some cost, then it would meet the hence of justice. Otherwise, chances of multiplicity of proceedings including wastage of cost and time of both the litigants cannot be ruled out. However, the way in which the plaintiff has persuaded this matter by filing this kind of application at the stage of arguments of merits, this application is deserves to be allowed by imposing cost. Hence I answer point for consideration in the affirmative and proceed to pass the following :

ORDER

IA No.VII filed by the plaintiff under the provisions of Order 6 Rule 17 r/w Sec. 151 of CPC is allowed with cost of Rs. 1000/- to be payable to defendants.

Learned counsel for plaintiff is directed to carry out necessary amendment and to furnish the amended plaint on or before next date of hearing without fail.

Prays time.

Call on for cost, to carry out amendment and to furnish the amended plaint by 20-3-2020.

(N.M.Ramesh.)
Prl. Senior Civil Judge,
Karwar.

