

ORDERS ON I.A.No.13

Plaintiffs filed the I.A.No.13 U/o 6 Rule 17 and Sec. 151 of C.P.C. seeking permission to amend the plaint as sought in the application.

2. Defendant filed the objection.

3. Heard. Perused the papers. Following points are taken:

1. Are there any grounds to allow the application?

2. What order?

4. Above points are answered as under:

Point No.1 : in the affirmative;

Point No.2 : As per final order

for the following;

REASONS

Point No.1:

5. At the out set plaintiffs filed the suit for the relief of partition and separate possession.

6. Plaintiff No.7 filed the affidavit and stated that: they filed application to implead plaintiff No.11. That application was allowed. Plaintiff No.1 died instate. Plaintiff no.2 to 6, 11, and defendants are devolved the share of plaintiff No.1. The share of the plaintiff No.2 to 6, 11 and defendants will change under the law. He filed the application to carry out necessary amendment. If the application is allowed, it will not change the nature of suit. Plaintiff NO.7 requested to allow the application.

7. In the objection, defendants contended that: the application is not maintainable. Application is frivolous and vexatious. Defendants denied the statement of applicant /plaintiff No.7. Defendants denied the change of share, after the death of plaintiff No.1. If the application is allowed it will change the nature of suit.

8. The contention of plaintiff No.7 is, plaintiff No.1 lost his breath. Plaintiff No.11 was impleaded. Defendants did not deny these facts.

9. Further contention of plaintiff No.7 is, after death of plaintiff No.1 and after impleading of plaintiff No.11, the share of the plaintiff No.2 to 6, 11 and defendants will change. The further contention of Plaintiff No.7 is, plaintiffs are intends to correct the quantum of share in the plaint. The contention of defendant is, the quantum of share will not change after death of plaintiff No.1.

10. If the quantum of share is changed in the plaint, it will not effect to the cause of action, nature of suit, jurisdiction and value of the suit. Even the quantum of share is changed by way of amendment, it will not effect the vested right of the defendants. Such being the case, in the opinion of court, sufficient grounds are available to allow the application. **As such answered point No.1 in the affirmative.**

Point No.2:

11. In view of the above discussion, pass the following:

ORDER

I.A.No.13 filed U/o 6 Rule 17 and
Sec. 151 of C.P.C by the plaintiffs is
hereby allowed.

For carrying amendment and to file
amended plaint.

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