

Orders on Memo

Counsel for plaintiff and plaintiff filed the Memo and requested to dismiss the suit as not pressed. Defendant No.2,4 and 5 filed the objection and stated that, plaintiffs filed the suit for partition. They filed the written statement. In a suit for partition, plaintiffs are defendants, defendants are plaintiffs. Defendants are entitled for 1/7th share each in the plaint 'A' and 'C'

Schedule properties. 'B' Schedule properties are not in existence and not available for partition. They filed the counter claim and deposited the court fee. They requested to dismiss the memo.

On perusal of the papers, plaintiff filed the suit against the defendants for the relief of partition and separate possession. Now the plaintiff filed the memo and requested to dismiss the suit. Defendant No.2, 4 and 5 contended that, they filed the written statement and counter claim and deposited the court fee. Counter claim is nothing but plaint. Such being the case, there is no impediment to dismiss the suit of plaintiff on memo and give the permission to the defendant No.2, 4 and 5 to continue the suit by treating the counter claim as plaint. Hence, pass the following:

ORDER

Memo filed by the plaintiff is hereby accepted. The suit filed by the plaintiff is dismissed as not pressed.

Defendant No.2, 4 and 5 are permitted to continue the suit by treating the counter claim as plaints.

Defendant No.2 and 5 filed the written statement and paid the court fee of Rs.100/- only. The court fee deposited by the defendant No.2 and 5 is not sufficient. Hence, hereby directed the defendant No.2, 4 and 5 filed the valuation slip, defendant No. 2 and 5 are directed to and pay the necessary court fee.

On perusal of the papers, on 09.01.2023. defendant No.4 filed the written statement. On 02.02.2023, defendant No.2 and 5 filed the written statement. There then the Presiding Officer did not provide the opportunity to file re - joinder to the counter claim. Such being the case, it is necessary to

provide an opportunity to file re - joinder to
the counter claim/ plaint.