

10-9-2024

P - MCK

D1 - MKVK

D2104 - KS

DS, 7 - GMB

DB - NSN

APPL & IA 26 - RKP

For order on

IA 26

Order on IA-26

Applicants have filed their application seeking to implead them in suit.

GPA holds of applicants dispute that they have rights in the patent schedule, profits and pray to implead them

Counter for 1st defendants files objections stating that applicants

have no right over the property
and prays to dismiss the T.A.

There was no representation
for counsel for the Plaintiff, nor
the plaintiffs were present.
Heard from applicants L.A.R.K.A.
and counsel for 1st Defendant.

Following point and for my
determination

"Whether the applicants
prove that they are the
proper or necessary parties?"

My answer to above point is in
"negative". for the following

Reasons

Application is filed in the year 2024, where suit was of the year ~~20~~ 2017. The parties went on stating that they are ready to settle the matter, but failed. Now the applicants are stating that they are the owner of the property.

The suit went for mediation but parties were not ready to report settlement, though the mediation report was received as settled. The plaintiff's case stands for the best known reason is

to limit
 continuously obtaining from the
 proceedings.

It was argued by the
 Counsel for the ^{1st} defendant that
 there is some other cor-
 responding at Mangalore, ~~and~~ the dispute
 to other property belonging to the
 same parties. Until and unless,
 the same is settled, the Plaintiff
 would not settle the matter and
 has sought for dismissal of the
 petition. Now further submit that
 these applicants ^{are} ~~are~~ having right
 over the property, over which case
 is pending in ~~at~~ Mangalore, but
 does not have right over the suit
 property and prays to dismiss the
 I.A.

The applicants though have stated that they have rights in the property, have not placed any material to show their rights. Mere stating that they have rights in suit property without any piece of document, does not establish prove their allegation. The applicants first ought to had establish their rights over the property abacally, in which they have failed. Therefore, it clearly depicts that it is a futile efforts by the applicants in collaboration with the plaintiffs to dodge the matter in one or the other way, until the suit in Mangalore is disposed off.

Thus. The approach of the applicants in the suit is nothing but only to have other parties to suit. Therefore, when no material is placed on record, this Court could come to the conclusion that the applicants are neither the proper nor the necessary parties to the suit. Accordingly, above point is answered in negative.

In view of the above reasoning the following Order

I.A. No 26 filed by the applicants under Order I Rule 10

of CPC is herewith dismissed with
 cost of Rs. 2000/- to be paid to the
 Kallala Advocates Association,

for Maramba
~~for Cross of P.O. 10/09~~

Sri. R.K.P. should file
 Memo not pressing SA-26
 and withdrawing Vakalat
 for application

However order on SA-26
 is already passed.

No rep. for Pt. Bui & PA
 holder of Pt. no. 1 and
 Dy. no. 3 & 4 present.

But Pw, absent.

It appears that Pw,
suffering from ill-health,
has executed CPA. Hence

~~Evidence of Pw,~~

Pw, is absent continuously
and is not tendering Jf.

Cross examination is further.

Hence fur. Cross examination of Pw,

is closed in view of

absence of Pw,

for def. evidence, call

on 13/09/—


10/01