

ORDERS ON I.A.NO.XXII

I.A.No.XXII is filed by the applicant/defendant No.10 U/o VIII Rule 1 R/w Sec.151 of CPC, with a prayer to permit him to file written statement.

2. In support of the application the defendant No.10 has filed his sworn affidavit contending that, he has not filed written statement within stipulated period, due to lack of knowledge, which is not an intentional one. Hence, prayed to allow the application.

3. On the other hand, the plaintiff submits IA may be allowed on costs.

4. On perusal of the records, the present suit is filed by the plaintiff against the defendants for partition and permanent injunction. In this case, even though the defendant No.10 appeared before this Court through his counsel, but in spite of granting opportunity, he has failed to file written statement within stipulated period. As rightly contended by the counsel for the plaintiff, now the case is posted for argument and reached at the fag end. At this too belated stage, the defendant No.10 came with the present application, which makes hurdle in speedy disposal of the case. However, every opportunities has to be given to the parties to prove their case. Hence, as rightly contended by the plaintiff's counsel, if the application filed by the defendant No.10 is allowed by imposing heavy costs that will meet the ends of justice. Therefore, in view of the above, I proceed to pass the following;

ORDER

I.A.No.XXII filed by the applicant/
defendant No.10 U/O VIII Rule 1 R/w Sec. 151

of CPC is hereby allowed on costs of Rs.2,000/-.

The defendant No.10 permitted to file W.S.

The W.S. of defendant No.10 is taken on record.

The memo filed by the defendant No.9 and 11 adopting the W.S. of defendant No.10 is hereby accepted.

Addl.Senior Civil Judge
& J.M.F.C., B.Bagewadi

Heard perused I.A.No.23, which is filed U/o 14 Rule 5 R/w Sec. 151 of CPC. Wherein the defendants 5 to 8 pray to additional issues i.e.;

Whether the defendant No.5 to 8 prove that, the suit of the plaintiff is bad for non-joinder of necessary parties?

Whether the defendant No.5 to 8 prove that, the suit of the plaintiff is incomplete for not including all available properties for partition?

The other side submits I.A. may be allowed on costs.

On perusal of the case records the defendants have taken specific contention in their written statement that, the plaintiff has not impleaded and included all the parties and properties in this suit. Hence, the suit of the plaintiff is bad for non-joinder of necessary parties and properties. Furthermore, the other side submits IA may be allowed on costs. If the I.A. is allowed it will help the Court in better adjudication of the matter. Therefore, without much discussion, I.A.No.23 filed by the defendants No.5 to 8 U/o 14 Rule 5 R/w Sec. 151 of CPC is hereby allowed.

Call for Addl.issues.

*Addl.Senior Civil Judge &
J.M.F.C., B.Bagewadi*