

ORDER BELOW EXH. 297

(Passed on : 18.03.2017)

01. Perused application. The defendants No. 1, 8, 13 & 14 have filed their reply on the application itself and pleaded that the plaintiffs have to produce documents of sale deeds and record of house property. If it is confirmed that it is a suit property, then only the plaintiffs ought to seek relief of prayer clause otherwise the application strongly objected. The defendant No. 35 also filed his reply on the application itself and pleaded that this application is filed only to protract the matter. The plaintiffs have amended the suit on 16.11.2016. Previously also as per order below Exh. 67, 181 & 209 the defendants are added. There is no new cause of action to add the proposed defendants. The plaintiffs are filing applications only when the suit is posted for dismissal order. Hence, application be rejected.

02. Considering the rival pleadings of both parties following points arise for my determination and I have recorded my finding against them with reasons as discussed below.

POINTS	FINDINGS
1. Whether the plaintiffs are entitled to implead the proposed defendants as party to this suit ? ...	<u>In negative.</u>
2. What order ? ...	<u>Application rejected.</u>

REASONS

As to points No. 1 & 2 :-

03. Heard learned counsel for both parties at considerable length. Perused case record. The plaintiffs have filed this suit for partition and separate possession. The suit is filed in the year 2008 and since then till today the plaint is amended for eight times. Initially, the suit was filed only against 12 defendants. Thereafter, the plaintiffs have added 24 defendants. Then again they have added 30 defendants. Now, they have filed this application for addition of 29 persons as defendants. It is pertinent to note that in the written statement of defendants filed in the year 2008, 2009 & 2011 they have raised objection about non joinder of necessary parties but it appears that the plaintiffs have not taken proper steps at proper time for addition of parties. Now, the suit is pending for dismissal order and then this application is filed. The conduct of plaintiffs indicates that they are prolonging the matter intentionally. It is pertinent to note that though the plaintiffs have pleaded that the proposed defendants have purchased some portion of suit property, no any document is filed on record to that effect. The plaintiffs have neither filed sale deeds nor filed any documentary evidence to show that really the proposed defendants have purchased the suit property. In absence of such documentary evidence it is very difficult to hold that the proposed defendants are necessary parties to the suit. Considering above facts, I am inclined to hold that the plaintiffs are not entitled to relief of addition of parties as claimed in

this application. Hence, my answer to point No. 1 is in negative. Therefore, the application deserves to be rejected. Hence, following order.

ORDER

01. Application is rejected.
02. No order as to costs.

Nilanga.
Dated : 18.03.2017.

Sd/-
(R. N. Barad)
Civil Judge Senior Division,
Nilanga.