

ORDER BELOW EXH.283 IN R.C.S. NO.44/1986

This is an application filed by defendant nos.1B/ 1 to 1B /3 and 2/1 to 2/4 under section 151 and order 14 of C.P.C. plaintiffs have filed their say (**Exh.284**) and strongly opposed the said application.

2. It is contended by Ld. Advocate for defendant nos.1B/ 1 to 1B /3 and 2/1 to 2/4 that, at the time of filing of suit i.e. in the year 1986 all the plaintiffs were party to the suit. Thereafter, the matter was decided by the trial Court upon which the revision was filed in District Court. During the revision petition the matter was remanded back to the present Court. During the pendency of this suit before this Court i.e. CJD, Pen, plaintiffs had filed one application and deleted names of some of the plaintiffs. Accordingly, the names of 10-12 plaintiffs got deleted. Till date that order has not been challenged. But now in order to decide the suit on merit the issue regarding 'non-joinder of necessary parties' needs to be added. Hence, he prayed the allow the application.

3. Plaintiffs have filed their say at **Exh.284** and contended that, the present suit is High Court time bound matter but just to delay the suit defendants are filing this of false application. It is further contended that, defendants have not uttered any single word about non-joinder of necessary party in there pleadings. Therefore, they prayed that application be rejected.

4. Perused the application and say. Admittedly the suit

is filed for prayer of declaration and recovery of possession. Initially it was the prayer of plaintiffs that, they be declared as the owner of the suit property. Thereafter, the matter was decided and aggrieved party went to the District Court for revision petition. In the revision petition the matter is remanded back to the present Court. During that period plaintiffs have applied for deletion of some of the plaintiffs. The said application (**Exh.211**) has been allowed by my Ld. Predecessor. Admittedly that order below **Exh.211** has not been yet challenged by either party. Therefore, that order is still in force. In such situation the law point regarding non-joinder of necessary parties will automatically arose. And in order to decide the suit on merit all the necessary issues needs to be framed. At the same time both parties are having opportunity to give their evidences if any in regard with the additional issue. Considering all the aspects, the application for additional issue is allowed. Hence, the order.

ORDER

1. Application is allowed.
2. Additional issue be added to the previous issues at **Exh.206**.
3. Both parties are at liberty to give their evidences in regard with additional issue, if any.

Date - 15/02/2023
Pen.

(Smt. R.N. Mujawar)
Civil Judge, J.D. Pen.

C E R T I F I C A T E

“I affirm that the contents of this PDF file order are same word for word as per original order”.

Name of the stenographer	: Shri. A. A. Nakhawa
Name of the Court	: Smt. R.N. Mujawar Civil Judge, J.D.and J.M.F.C. Pen.
Date of Decision	: 15-02-2023
Order signed by presiding officer	: 15-02-2023
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