

Order No.2

Dated:- 16.11.18

Plaintiff files a petition under Order 6 Rule 17 C.P.C for amendment of Plaint and a petition u/s. 153 CPC supported by affidavit.

The petition u/o.6 rule 17 of CPC and u/s 153 CPC is moved by the Ld. Advocate for the Plaintiff.

Heard.

It is stated by the plaintiff that he has filed the present suit for partition and during the drafting of the Plaint certain mistake occurred in the description of property in the scheduled of the Plaint and it is necessary to rectify the same or else the Plaintiff will be highly prejudiced.

Heard the Ld. Advocates in full.

Perused the record.

It appears that vide the amendment the Plaintiff seek to correct the typographical mistake and the same is formal in nature and will not prejudice the Defendant it will not change the nature and character of this suit. For proper and final adjudication of the suit the proposed amendment in the plaint necessary.

Hence, it is,

ORDERED

that the petition under Order 6 Rule 17 CPC and the petition u/s. 153 CPC filed by the plaintiff on 16.11.18 are hereby allowed in ex-parte.

Let the plaint be amended accordingly.

Plaintiff is directed to file amended copy of plaint.

Later:- / Dt.16.11.18

Plaintiff files an amended copy of Plaint as well as injunction petition. Let the same be kept with this record.

The Plaintiff moves the petition under O-39 R 1&2 CPC.

Heard Ld. Advocate for the Plaintiff.

Issue notice upon the principal Defendants No. 11 and 12 directing them to show-cause within 15 days of receiving the same as to why the Plaintiffs' prayer for temporary injunction shall not be granted.

Perused the plaint, the petition under O-39 Rule 1&2 CPC and the documents of the Plaintiffs.

The Plaintiffs' case is that Patani Bewa, Wajed Ali, Arsed Ali, Majeda Bibi, Rejiya Bibi, and Nabiya Bewa had right, title and interest over some portion of suit property and they transferred 27 decimal land to the Plaintiff vide Registered Deed dt. 21.02.83. The other co-sharers were Jahanara Bewa and Jebanu Bibi they transferred 4 decimal land to the Plaintiff vide Registered Deed dt. 16.11.98. Thus Plaintiff has 31 decimal in suit property and his name was recorded in LRROR. The suit property is ejmal property and parties are co-sharers. Defendant No. 11 and 12 are trying to raise construction over the best portion of the suit property and have gathered building materials for the purpose. When the Plaintiff asked for amicable partition the Defendants refused. Hence the instant petition. Accordingly, the Plaintiffs have prayed for passing an order of ad-interim injunction against the Defendants.

The suit property is unpartitioned. On affidavit the Plaintiffs stated that the Defendant no. 1 is trying to change, nature and character of suit property by raising construction over the suit property. Considering the above aspects, I think that the plaintiffs have a prima facie and the plaintiffs will suffer irreparable loss and injury if the

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Defendants are successful in their efforts. There is a necessity to preserve the suit property or else multiplicity suit will arise.

Hence it is,

ORDERED

both the Plaintiff and the Defendant Nos. 11 and 12 are directed to maintain status quo in respect of the nature, character and possession over the suit property till 13.12.18.

The Plaintiff is directed to comply with the provisions laid down under O-39 R 3(a) and (b) CPC at once.

Dictated & Corrected by me

C.J (Sr. Divn), Lalbagh, Msd.

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