

Order No. 23 dated 24.04.19

Parties file hazira.

Plaintiff moves the petition under Order 6 Rule 17 C.PC dated 28.09.16. Defendant filed WO on 06.05.17. Heard the Ld. Advocate for the Plaintiff and the Defendants in full.

It is contended by the Plaintiff that in view of the W.O dt. 25.06.15 filed by the Defendants it is necessary to amend the Plaint and accordingly the instant petition u/o. 6 rule 17 CPC has been filed by the Plaintiff. It is submitted by the Ld. Advocate for the Plaintiff that in their W.O the Defendants have stated their case and in view of the same it is necessary that the Plaint be amended or else the Plaintiff will be prejudiced. Ld. Advocate also relied upon the decisions reported in 2016 (3) ICC 595 (Calcutta) and 2016 (3) ICC 361(Punjab and Haryana). Ld. Advocate for the Defendant vehemently opposed the petition and stated that the Plaintiff is trying to withdraw from his admission made in the Plaint and if the petition is allowed the nature and character of the suit will be changed and is liable to be rejected. He further pointed out that the Plaintiff is trying to insert new facts.

Perused the Petitions and the record. The suit was initially filed praying for partition in respect of portion of each suit Plot and now by way of amendment the Plaintiff intends to include the entire Plots in the suit and also proposes to insert some facts in view of the W.O filed by the Defendants. The trial in the suit is yet to begin and Defendants will not be prejudice if the proposed amendment is allowed. Moreover, it is desirable to adjudicate upon a dispute finally. Proposed amendment, if not allowed will frustrate the 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 dated 28.09.16 is hereby allowed on contest with cost of Rs. 1000/- to be payable to the Defendants.

Let the Plaint be amended accordingly.

Plaintiff is directed to file amended copy of Plaint.

To 17.08.2019 for payment of cost and amended copy of Plaint and for hearing of Petition u/o.1 rule 10 (2) CPC.

Dictated & Corrected by me.

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

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