

ORDER BELOW Exh.36

This application is for permission to amend the plaint. Perused application and reply.

2. It is submitted that, the third applicant Satyanarayan Sarda filed application under Order 1 Rule 10 and prayed for adding him as defendant no.2 in this suit. Accordingly, the Court directed the plaintiff to add Sarda as defendant no.2 and file amended copy of the plaint. However, during this time, the Trustee of Shriram Mandir Trust namely Lalsing Gopalsing Pardeshi died on 15/10/2024 at Ahmednagar. Satyanarayan Bansilal Sarda filed Trust Application No.1/2005 against Lalsing Pardeshi and others in the Hon'ble District Court. Lalsing Pardeshi also filed Trust Application No.2/2005. Both these application were decided together and on 21/01/2022 the order was passed and at Page No.13 column 3 it was mentioned that, "The Trust Application No.2/2005 filed by Lalsing Gopalsing Pardeshi survived by Sunil Udayasing Pardeshi". In this manner Sunil Udayasing Pardeshi was appointed as Survivor of the Lalsing Gopalsing Pardeshi. Hence, it is necessary to amend the title of plaint by mentioning name of Sunil Pardeshi as Survivor. The proposed amendment is formal in nature and it will not make any change in the plaint. Hence, this application.

3. The intervener objected this application vide reply at Exh.40 stating that, the contents of the application are false. After death of the plaintiff it was required to appoint Survivor by Trust Registration Court. The plaintiff has not followed the proper procedure in this case. Hence, application be rejected with costs.

4. The defendant objected this application vide reply at Exh.41. According to the defendant, contents of the application are false. The suit is filed under the Maharashtra Rent Control Act. In fact, Lalsing was not having any right and authority as per law to file the suit. The defendant and his predecessors are tenants of Shriram Mandir Trust. There are

several dispute between Trustees of the said Trust. The suit was filed in the year 2022 by Lalsing. Then it is not understandable that, if the Sunil was Survivor in the year 2012 then why he had not filed this suit. Thus, the suit is not maintainable. Shriram Mandir is a trust and if any person in the trust dies then it is necessary to file separate case as per other Act before the Hon'ble Charity Commissioner. In this case, there is no document on record to show that the Charity Commissioner passed the order after death of Lalsing. Hence, the plaint can not be amended by mentioning Sunil as Survivor of Lalsing. There is no provision in law as to such amendment. If the application is allowed then Sunil becomes Trustee and there will be problem of jurisdiction. The order in Trust Application Nos.1/2005 and 2/2005 are totally different from this suit. The said order is not applicable in this case. Sunil Pardeshi is not concerned with the trust and hence there can not be any relation of Landlord and tenant between Sunil and this defendant. The application is also not tenable as per Order 6 Rule 17. In this case, the third person appeared and raised objection to the suit. Hence, there is dispute as to Trustee and ownership of Shriram Mandir Trust. This Court can not decide this dispute. Sunil can not be added as Survivor unless the Competent Court decided this dispute. As Lalsing is died the suit is abated as per law. The defendant prayed for rejection of application.

5. Perused record of the suit. The suit is for recovery of possession and rent as per Maharashtra Rent Control Act. The suit was filed by Lalsing Gopalsing Pardeshi stating him as a Trustee of Shriram Mandir Trust. Admittedly Lalsing died on 15/10/2024. This application is filed by Sunil to make amendment in the title of the plaint calling himself as Survivor. The defendants strongly objected this application. The advocate of the defendant argued on grounds mentioned in the reply and also argued that, there are cases in the Hon'ble High Court in respect of trust and trustee and unless there is order of the Competent Hon'ble

Cahrity Commissioner, Sunil can not be allowed to make amendment in the plaint and represent the Trust. Record further shows that, Satyanarayan Sarda also intervened in this suit. His application was allowed and the plaintiff was directed to add him as party to the suit as defendant no.2. But admittedly, now Satyarayana Sarda is dead and hence his objection can not be considered at this stage. But the question is whether Sunil Pardeshi can be allowed to make amendment in the plaint. In this respect, this applicant Sunil relied on judgment dated 21/01/2012 of Hon'ble District Court, Ahmednagar in Trust Applications No.01/2005 and 02/2005. The said judgment shows that, it is mentioned in the Judgment that "Lalsing Gopalsing Pardeshi survived by Sunil Udaysing Pardeshi of Rajput community". It is also mentioned that, Lalsing survived by Sunil filed application no.4/87 and Trust application No.2/2005. Thus, this shows that, two trust applications were filed before the concerned Hon'ble ACC, Ahmednagar. The scheme of application no.2/2005 was allowed by order of Hon'ble District Court. Accordingly, note of it also taken in the Register maintained at Public Trust Registration Office, Ahmednagar. In that note also Sunil is shown as Survivor.

5. It is necessary to mention that, the defendant admitted that he is the tenant of Shriram Mandir Trust but challenged authority of Lalsing also in the written statement. In same manner, the defendant has challenged authority of Sunil Pardeshi. At this stage of amendment application no other person appeared to challenge this application. But record and various judgments shows that Sunil is shown as Survivor. Considering this background, it is not appropriate to reject this application for amendment otherwise suit will be abated though cause of action survives. The plaintiff is a Trust and not a human being. The documents i.e. the copy of register at Exh.9/1 and the judgment of Hon'ble District Court at Exh.39/2 shows that name of Sunil is mentioned as Survivor. Even the judgment given in Scheme Application No.4/1987 at Exh.21/2

also shows name of Sunil alongwith Lalsing. Hence, at this stage it appears that Sunil is not a person who is not at all related and concerned to Lalsing or Shriram Trust. There are documents showing his connection. The defendant challenged authority of Lalsing on ground of cases before Hon'ble High Court and on same ground also challenged authority of Sunil. This right can be decided on merit and as per order of Hon'ble High Court and Competent Court. But at this stage, it is appropriate to allow this application. The defendant has right to raise defence. Hence, objections of the defendant are not tenable at this stage and it is appropriate to allow this application. Hence, following order-

ORDER

1. The application is allowed.
2. The applicant shall carry out amendment in the plaint as per this application within 14 days from today and shall file amended copy of the plaint.

Date – 30-06-2025

(R.S.Dhadake)

Ahmednagar

24th Jt. Civil Judge Senior Division, Ahmednagar.