

SPCS/84/2012

ORDER

Registration No.: SPCS/84/2012
Filing No.: SPCS/84/2012
Filed On: 02/05/2012
Registered On : 02/05/2012

IN THE CIVIL COURT AT BHAVNAGAR

SPECIAL CIVIL SUIT NO. 84 OF 2012.

Plaintiff:

VERSUS

Defendant:

—
Appearance:

No Advocate For Plaintiff

No Advocate For Defendant

SPECIAL CIVIL SUIT NO. 84 OF 2012

Order Below Exh. 105

1. This is an application moved by the plaintiffs under Order 6, Rule 17 read with Section 151 of the Code of Civil Procedure, for amendment in the original-plaint interalia contending that initially, it was decided by the plaintiffs that after making entry in revenue record in their favour, the plaintiffs would initiate legal proceedings as regards to the said ancestral properties as described, more particularly, in para-4 of the present application, hence,

at the time of filing of the suit, said land was not contained by the plaintiffs in the suit. It is further stated that names of defendant Nos. 3, 4 and deceased-Parshottambhai are entered in revenue record, but, in relation to said condition and remaining disputed lands, defendant Nos. 7 to 10 are not concerned parties and the defendants are misleading the Hon'ble Court by making false submission. It is further stated that merely on the basis that their (i.e. plaintiffs) names are not entered in the revenue record, the right of the plaintiffs cannot be affected and the plaintiffs have right in the ancestral properties. Therefore, the plaintiffs are constrained to file the present application wherein it is requested to allow reliefs as stated in para-4 of the present application.

2. The defendants have resisted strong objection in pursuance to the present application. Defendant Nos. 3 and 4 have filed their written objections vide Exh. 106 and defendant No. 19 has filed their written objections vide Exh. 107. While defendant Nos. 7 to 10 and defendant Nos. 15 to 18 have filed their written objections vide Exhs. 114 and 115 respectively. Whereas defendant Nos. 22 to 43 have filed their written objections vide Exh. 116.

3. Heard learned Advocates for the respective parties. Gone through the record and proceeding of the present case and the written-objections of the other side as well. Perused the present application Exh. 105.

4. Considering overall facts and circumstances of the present case, this Court is of the opinion that if the present application is allowed, the right of the present defendants will not be prejudiced. On the contrary, by allowing the present application, right of both the parties will be cured. Moreover, the present defendants will get sufficient opportunity to defend their case, and, therefore, if the present application is allowed, it will meet the ends of justice. As a result, the following order is passed.

ORDER

- (i) The present application Exh. 105 is hereby allowed.

- (ii) The plaintiffs are hereby permitted to amend the plaint accordingly.

- (iii) Copy of the amended plaint be provided to the concerned parties.

- (iv) No order as to costs.

Order pronounced in the open Court today on 9th
day of October, 2013.

Bhavnagar
Date : 09-10-2013

(H.J. Nenuji)
Code No : GJ00453
2nd Addl. Senior Civil Judge &
Addl. Chief Judicial Magistrate
Bhavnagar