
SPECIAL CIVIL SUIT NO. 74 OF 2021

Order below application at Exh.44 :-

By way of filing the present application under Order 1 Rule 10 of the Code of Civil Procedure, the learned advocate appearing for the defendant Nos. 71 to 73 has prayed to delete the name of the defendant Nos. 71 to 73 from the record of the present suit.

Read this application as well as the pursis filed by the learned advocate appearing for the plaintiff vide Exh.57 and perused the entire record. Heard Mr. N.B. Patel, learned advocate appearing for the defendant nos. 71 to 73 and the learned advocate appearing for the plaintiff.

Having heard the learned advocates appearing for the respective parties and on perusal of the entire record, it appears that the plaintiff has filed the present suit for partition and cancellation of the registered sale deeds as well as for declaration and permanent injunction against the defendants. However, by way of filing the present application, the learned advocate appearing for the defendant nos. 71 to 73 has submitted that the said defendant nos. 71 to 73 have nothing to do with the suit lands and they have never executed any sale deed and the plaintiff has wrongly joined them as party in the present suit. He has also submitted that the defendant nos 71 to 73 are now the owner of the suit lands and they have never made any transaction relating to the suit lands with anyone. He

has clarified that the defendant nos. 71 to 73 are the joint owners and occupiers of the land being Block No.322 of Village : Kunvarda, Taluka : Mangrol, District : Surat and as such they do not know any party to the present proceedings and they have never executed any document pertaining to the land in question.

It is submitted that the plaintiff has produced the documentary evidence at Mark 3/63 and the said registered sale deed pertains to the plot no.99 of Block No.32 of Village : Kunvarda, Taluka : Mangrol, District : Surat of the defendant nos. 71 to 72 , however, on perusal of the said registered sale deed produced at Mark 3/63, it clearly appears that the defendant nos. 71 to 73 have executed the said registered sale deed in favour of the defendant no.70 and it is not related to the subject matter of the suit lands and, thus, the plaintiff has wrongly joined them as party defendants in the present suit and accordingly, the learned advocate appearing for the defendant nos. 71 to 73 have prayed to delete them from the record of the present suit.

On perusal of the record, it appears that Mr. Rana, the learned advocate appearing for the plaintiff has already filed a pursis vide Exh.57 on 9th October, 2018 and he has declared that after filing the present application, he has verified the record and submitted that the documentary evidence produced at Mark 3/63 relates to the land Block No.322 of Village : Kunvarda and in the present suit, the plaintiff has not claimed any relief relating to the said land Block No.322 as mentioned by the defendant nos. 71 to 73 in the present

application. He has also submitted that as such the said registered sale deed No.5332/2015 produced at Mark 3/63 has been executed by the defendant nos. 71 to 73 in favour of the defendant no.70 and accordingly, he has also fairly declared that the defendant Nos. 70 to 72 be deleted from the record of the present suit.

Considering the fact and the circumstances of the case, since the defendant nos. 71 to 73 have executed the registered sale deed No.5332/2015 in favour of the defendant no.70 and as such the said registered sale deed is relating to the plot No.99 of Block No.322 of Village : Kunvarda, Taluka : Mangrol, District : Surat of the defendant nos. 71 to 73 and the plaintiff has not claimed any relief for the said plot no.99 of Block No.322 in the present suit and thus, it clearly appears that the plaintiff has wrongly joined the defendant nos. 70 to 73 in the present suit and the learned advocate appearing for the plaintiff has also fairly accepted the mistake and, therefore, the defendant nos. 70 to 73 are required to be deleted from the record of the present suit

For the foregoing reasons, in the interest of justice, I hereby pass the following order :-

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The present application at Exh.44 is hereby
ALLOWED.

The names of the defendant Nos. 70 to 73 are hereby ordered to be DELETED from the record of the present suit.

The amendment be carried out within stipulated time and the amended copy of the plaint be furnished on the next date without fail. No order as to costs.

Put up on 1st April, 2023.

Pronounced in the open court on this 14th day of March, 2023.

Date: 14th March, 2023.

(Rajendra Ghanshyambhai Barot)
Principal Senior Civil Judge
Mangrol, District : Surat
Judge Code : GJ00572