



No.241/2010. The parties to the sale deed are not parties to the property. Hence, it is illegal. The said sale deed is suffers from principle of lis pendense. The Gajanan Anvekar and Maruti Raikar are necessary parties in this suit, but the plaintiffs have purposely not made the said Gajanan and Maruti as parties in this suit. The said amendment is necessary to decide the lis between the parties. If the amendment is allowed, it will not change the nature of the suit and no prejudice will be caused to the other side. Hence, prayed to allow the application.

3. The counsel for plaintiff has filed objection to this I.A. contending that the contents of the application and affidavit are false and frivolous and not maintainable. Further contended that the defendants No.1 and 2 have filed this application at belated stage. There are serious allegations made by the plaintiffs in the plaint regarding acts and deeds made by Gajanan Anvekar and also Maruti Raikar who is said to be the GPA holder of few plaintiffs. The defendants No.1 and 2 are alone not the owners of the suit property. They being fed up with acts and deeds of the defendants No.1 and 2 had filed partition suit in OS No.241/2010 and FDP No.37/2011. Plaintiffs are in actual possession and enjoyment of their share of the property. On coming to know about misdeeds of said Gajanan Anvekar and defendants No.4 to 6 got impleaded them also. Because of bad habits and misdeeds of defendant No.1 and 2 there was scope for Gajanan who had played misdeeds with defendants No.4 to

6 to gain illegally and got illegitimate benefit out of the same. Hence, prayed for rejection of the application.

4. Heard and perused the records. The following points arise for my consideration:

1. Whether the defendants No.1 and 2 have made out grounds to allow the application?

2. What order?

5. My findings to the above points are as under:

1. In the Affirmative.

2. As per final order,  
for the following:

### **REASONS**

6. **Point No.1:** The plaintiffs have filed suit against the defendants for declaration. The defendants appeared and filed written statement. Based on the pleadings issues have been framed. Herein in the present case the defendants No.1 and 2 have filed this application at belated stage though they were having knowledge about the facts of the case. Themselves have executed the sale deed in favour of purchasers. Now by way of this amendment application the defendants are intending to insert some facts with regard to publication of notice and litigation and principle of lis pendence. In view of judgment of Hon'ble High Court of Karnataka in WP No.57142.2016, Machani Sethuram -vs-

Smt. Sarojini Shukla and others, this court liberally granting the prayer of amendment, because this court has permitted them to plead and prove their case. The proposed amendment would not cause prejudice to the other side. Hence, it is required to be allowed to adjudicate the matter in controversy between the parties and to avoid multiplicity of proceedings between the parties. Keeping in mind the principle of law laid down by the Hon'ble High Court and considering the facts and circumstances of the case, I am of the considered view that the amendment application deserves to be partly allowed.

7. So far as last para of the application is concerned, the prayer is rejected, because already the impleadment application filed by the defendants No.1 and 2 U/o.1 Rule 10 of C.P.C. has been rejected by this court, because the Gajanan Anvekar and Maruti Raikar are not necessary parties in the suit proceedings. They were no way concerned to this proceeding. Hence, the last prayer is rejected. Therefore, I answer point No.1 in **partly Affirmative**.

8. **Point No.2:** In view of my answer to point No.1 as stated above, I proceed to pass the following;

**ORDER**

The I.A. No.XX filed by the defendants No.1 and 2 U/o.6 Rule 17 r/w. Section 151 of C.P.C. is hereby partly allowed.

The defendants No.1 and 2 are permitted  
to amend the written statement and file  
amended written statement.

(Dictated to the Stenographer directly on computer, computerized by her, script corrected directly on computer and then pronounced by me in the Open Court on this the 20<sup>th</sup> day of January – 2025)

**(Yamanappa Karehanumanthappa)**  
**Prl. Senior Civil Judge, Hubballi.**