

ORDER BELOW EXH.55 IN RCS No.75/2011

The plaintiff has filed application submitting that, he is 75 years old. Therefore, it is not possible for him to do agricultural work and work relating to the bank, society etc. Therefore, he has transferred the suit property in the name of his sons namely Popat Sitaram Khemnar and Devidas Sitaram Khemnar on 28.11.2017 by registered gift deed. Hence, said suit properties are possessed by his sons. It is not possible for the plaintiff to come to the court in the present suit on each date, hence, it is prayed by the plaintiff that names of his sons i.e. Popat Sitaram Khemnar and Devidas Sitaram Khemnar be added as plaintiff no. 2 and 3 and he may be granted permission to amend the plaint accordingly.

2] Perused the say of defendants. They have objected the application on the ground that the plaintiff has filed false application to give go by to interim settlement. During the pendency of the suit plaintiff has transferred the suit property in the name of his sons. Actually, the plaintiff and his sons had taken huge amount from defendant, however, they did not sell the suit property to defendant. On the contrary, they made the gift deed between them. Therefore, the plaintiff has filed the suit for execution of sale-deed under Specific Performance Act. Interest of the plaintiff and proposed plaintiffs are the same. There is *lis-pendence*, transfer of the property which is not binding on defendants. Therefore, this application is not tenable, defendants prayed to reject the application on these grounds.

3] Heard learned counsels for both the parties. Perused the record. On keenly going through the plaint it reveals that, the said suit is

filed for interim injunction in respect of 10 feet wide road restraining defendants from blocking and obstructing the said road. In the present suit the interim application of plaintiff at Exh. 5 restraining defendants from causing obstruction on the road used by plaintiffs is allowed. Therefore, in the interest of the suit and for the just decision of the suit it is necessary to allow the application of the plaintiff. No prejudice or harm will be caused to defendants if this application is allowed. Therefore, I pass following order :-

ORDER

1. The application is allowed.
2. The plaintiff is granted permission to carry out amendment and add name of his sons namely, Popat Sitaram Khemnar and Devidas Sitaram Khemnar as plaintiff no. 2 and 3 within 14 days from this order and copy of amended plaint be provided to defendants.

Date: 10.08.2018

(P. I. Mokashi)
2nd Joint Civil Judge Senior Division.,
Sangamner.