

ORDER BELOW EXH. 60 IN R.C.S. No. 245/2017

1] The present application is moved by the plaintiffs for amendment of the plaint and also impleading the defendant no. 8 in the present suit.

2] As per the plaintiffs the suit is for declaration, perpetual injunction and also for the mandatory injunction. The suit property i.e. Grampanchayat property no. 4 belongs to Grampanchayat Bhavdi. All the persons resident of village Bhavdi are using the said property. The said Grampanchayat property no. 4 was subdivided by giving new Grampanchayat property no. 4/1. The said fact is challenged in the present suit. When the said property was subdivided and new assessment list extract was issued as Grampanchayat property no. 4/1, Rama Chandu Dhanwade was acting and in charge as a Gramsevak of said Grampanchayat. In his period false, frivolous as well as forged assessment list extract was issued. Therefore, it is necessary to implead the said Gramsevak Rama Chandu Dhanwade as necessary party to the present suit. The plaintiffs also sought the consequential amendment by inserting new para no. 3A alleging the illegal act committed by the proposed defendant no. 8 while issuing Grampanchayat list assessment extract.

3] As per plaintiffs they are not making any new case. Proposed amendment will not change the original nature of the suit. Moreover, to decide the real controversy between the parties, proposed amendment is essential and prayed to allow the application.

4] Defendant nos. 6 and 7 filed their say vide Exh. 65 and contested the present application. As per the said defendants, already

Sarpanch of the said Grampanchayat is party to the present suit. The disputed property is ancestral property of defendant no.5. As the present defendant moved the application in respect of jurisdiction of the court, the present false application is filed to counter the said application. The Gramsevak is a Government servant who is looking after the day to day business of the Grampanchayat. In case of there is dispute in record of Grampanchayat, he is not responsible as a person. Therefore, there is no need to implead the present defendant no. 8 with his personal name. Thus, as per these defendants the proposed defendant is not responsible and therefore, it is not necessary to implead him with his name and prayed to reject the application.

5] Heard both sides. Ld. advocate Shri. Gawali for the plaintiffs submitted that the crux of the dispute is subdivision of Grampanchayat property no. 4 by giving new Grampanchayat property no. 4/1. The assessment list extract of Grampanchayat property no. 4/1 was firstly issued when the proposed defendant no. 8 was acting as Gramsevak of the said Grampanchayat. As per him, the false, illegal and forged record was prepared by the proposed defendant no. 8. The proposed defendant no. 8 appeared and denied all these contentions by filing his explanation vide Exh. 52. Therefore, as per the learned advocate of the plaintiffs, it is necessary to implead the proposed defendant no. 8. He also pointed out the specific order passed below Exh.1 wherein my learned predecessor pleased to direct the plaintiffs to implead the proposed defendant no. 8. At last the learned advocate for the plaintiffs submitted that the proposed amendment will not change the nature of the suit and it will be helpful to decide the real controversy. Accordingly, he prayed to allow the application.

6] On the other hand, the Ld. advocate Shri. P.V. Deshmukh for the defendant nos. 6 and 7 forcefully submitted that the disputed property is ancestral property of defendant no.5. For that purpose he pointed out assessment list extract of the year 1964-65 wherein property no. 65 was entered in the name of Dada Thaku Koratkar. He further pointed out that the Grampanchayat property no. 59 at the relevant time was temple of Lord Maruti. Therefore, as per him the property adjacent to the temple was owned by the ancestor of defendant no. 5. As the ancestor of defendant no. 5 were illiterate, therefore names were not entered in the Grampanchayat record. Therefore, disputed property belongs to the defendant no. 5 which was entered in his name. The proposed defendant no. 8 filed his explanation wherein he specifically alleged that the assessment list extract was issued in his leave period. Therefore, the proposed defendant no. 8 is not responsible for preparing any document. It is for the plaintiffs to find out who issued such document. He also submitted that the proposed defendant no. 8 is a Government servant. Therefore, it is at all not necessary to implead him personally. Therefore, he prayed to reject the application.

7] At the outset from the pleadings of the parties, it is crystal clear that the real dispute between the parties is subdivision of Grampanchayat property no. 4. It discloses that the Grampanchayat property no. 4 was subdivided and new Grampanchayat property no. 4/1 was prepared in the name of defendant no. 5. Therefore, real crux of the dispute is subdivision of Grampanchayat property no. 4. The plaintiffs specifically alleged that subdivision took place when the proposed defendant no. 8 was acting as Gramsevak. Moreover, on perusal of the order below Exh. 1, my learned predecessor has already pleased to direct the plaintiffs to implead Rama Dhanwade as a

necessary party. Therefore, considering the whole dispute, in my considered view, in order to decide the real controversy the presence of proposed defendant no. 8 will be helpful. If at all the proposed defendant no. 8 is not responsible for the act alleged by the plaintiffs, then he has every right to explain and defend himself. Moreover, no prejudice will cause to any defendants nor any prejudice will cause to proposed defendant no.8 if he is impleaded with his specific name. It is also worthwhile to mention that the proposed amendment is consistent with the pleadings of the plaintiffs. It will not change the original nature of the suit. Therefore, considering all these facts and circumstances, in my considered view, the proposed amendment is essential to decide the real controversy between the parties. Accordingly, the application deserves to be allowed and following order is passed.

**Order**

- 1] Application Exh. 60 is hereby allowed.
- 2] The plaintiffs to carry out necessary amendment and produce the amended copy of plaint for the newly added defendant within 14 days and failure to comply, leads to rejection of present application.

Dictated and pronounced in open court.

Shrigonda.  
Date : 09/03/2018.

**( K. M. Kayangude )**  
Civil Judge Senior Division,  
Shrigonda