

Order below Exh. 14 in R.C.S. No. 33/2013

1. This is an application by plaintiffs, seeking an amendment in the plaint, so as to implead 2 persons as defendants. It is contended that plaintiffs are seeking relief of partition and declaration. During pendency of the suit, defendant no.1 sold part of the suit property to third persons, namely Dattatraya Karbhari Thombre and Chaya Dnyaneshwar Thombare on 08/05/2014 without seeing consent of plaintiffs. Therefore, those persons are required to be impleaded as defendants. The said fact has been disclosed when plaintiffs obtained certified copies of concerned sale deed. Plaintiffs are praying that those persons may be impleaded as defendant no. 14 and 15.

2. Called say of other side. Ld. Counsel for defendant no. 1 to 4 filed his say vide Exh. 17. He is resisting the application. It is contended that the transaction, dated 08/05/2014 is not illegal. The oral agreement of sale has been taken place even earlier to filing of the suit. Only compliance has been made thereof. Block no. 146 is not joint family property. No injunction order was in existence at the time of transaction. He is praying for rejection of application.

3. Heard both sides. I have gone through pleading of parties and documents on record. Plaintiffs want to implead Dattatraya Karbhari Thombre and Chaya Dnyaneshwar Thombare as defendants only on the ground that they purchased parts of the suit property during pendency of the suit. It is seen that although, it is mentioned in the application that plaintiffs came to know about the same after obtaining certified copies of concerned sale deed and plaintiffs also furnished details thereof, they did not file certified copies on record. However, looking to the say of defendants, it is seen that they admit transaction. Therefore, it is no longer necessary for

plaintiffs to bring evidence of transaction in support of their contention. Thus, admittedly, the transaction of the suit property took place during pendency of the suit, whereby aforesaid two persons purchased parts of the suit property. Looking to the nature of the suit, it is seen that third party interest has been created in the suit property. Therefore, purchasers became necessary party to the suit. Therefore, it is necessary to implead them as defendants. The proposed amendment would not change nature of the suit. It will not cause any prejudice to the right of defendants. It is necessary for proper adjudication of the matter. Therefore, application deserves to be allowed. Therefore, I pass the following order.

Order.

- 1) The application is allowed.
- 2) Plaintiffs to carry out an amendment within 14 days.

Sd/-

Place:- Vaijapur
Date :- 23/09/2014

(D. J. Endait)
2nd Jt. C.J.J.D. Vaijapur.

CERTIFICATE

I affirm that the contents of this P.D.F. file judgment are same, word to word, as per the original judgment.

Name of the stenographer : R.S. Chaudhari.

Court: 2nd Jt.C.J.J.D. Court, Vaijapur.

Date: 23/09/2014

**Judgment signed by the
Presiding Officer on:** 23/09/2014

Judgment uploaded on: 23/09/2014