

**REGULAR CIVIL SUIT No. 33/2012**

**ORDER AT EXHIBIT 54**

*Smt.Latabai wd/o Dattatrayarao Dabhade & ors.*

vs.

*Vinayak s/o Vasantrao Dabhade & ors.*

1. The present application is filed by the plaintiffs for amendment of the plaint. By way of amendment, the plaintiffs intend to implead one Vaijapur Merchants Co-operative Bank Ltd., Vaijapur, its Recovery Officer and Auction Purchaser of the suit property as defendants No. 15 to 17 respectively. The plaintiffs also intend to amend their pleadings in respect of auction and sale of suit property conducted by the proposed defendant No.15 Bank. It is contended that, the plaintiffs have filed the present suit claiming partition and separate possession of their shares in the suit property. However, after institution of present suit, the proposed defendant No.15 Bank has conducted the auction and sale of suit property for the satisfaction of loan purported to have been taken by defendant No. 1 from it. According to the plaintiffs, the proposed defendant No.15 Bank had though knowledge about shares of plaintiffs in the suit property, the proposed defendant No. 15 Bank, acted illegally without affording an opportunity of hearing to the plaintiffs before sale of suit property to the proposed defendant No. 17. Therefore, in view of the subsequent developments after institution of present suit, the amendment of plaint to that effect is necessary.

2. The proposed defendants No. 15 and 16 have opposed the present application. They have submitted that, the defendant No.1 has made satisfaction of loan on 15.03.2014 and therefore, the defendant No.15 Bank is not likely to initiate any action for

attachment of suit property, which being mortgaged for the loan of defendant No.1. Hence, the proposed defendants No. 15 and 16 are not necessary parties to the present suit. They have further submitted that, the contents of present application are false. Hence, they have prayed that, the present application may be rejected.

3. I have heard the learned counsel of plaintiffs. I have perused the record. It is apparent from the record that, the plaintiffs have filed the present suit for the partition and separate possession of their shares in the suit property, claiming the suit property to be the joint Hindu family property of them and defendants. It is not disputed that, the transaction of sale has been effected after institution of present suit. Therefore, in view of the provisions of Section 52 of the Transfer of Property Act, the transaction of sale appears to be hit by the rule of lis pendense. Hence, the proposed defendants No.15 to 17 seem to be necessary parties to the present suit as the decree of present suit shall be binding on them in case the same is passed in favour of the plaintiffs. In that view of matter, I find that, the present application is maintainable in law. Hence, I pass the following order :-

ORDER

1. The present application shall stand allowed.
2. The plaintiffs shall effect the necessary amendment of the plaint within a period of 14 days from the date of this order.

Place: Vaijapur  
Date : 13.02.2015

Sd/-  
(R.J.Pawar)  
Jt.Civil Judge,S.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 : M.B. Khonde  
Court : Jt.Civil Judge,S.D. Vaijapur  
Date : 13.02.2015  
Judgment signed by the presiding officer on : 13.02.2015  
Judgment uploaded on : 16.02.2015