

R.C.S. No.201/2018

Sunandabai & Ors. Vs. Sarubai & Ors.

CNR No. MHAU050011862018

ORDER BELOW EXH. 17

Plaintiffs have filed present application for amendment Under Order 6 Rule 17 of C.P.C. Plaintiffs have submitted that defendant no. 1 is their step mother and plaintiffs and defendants are heirs of deceased Prabhat. Initially they have filed suit for declaration and by this application they want to amend pleading in respect of their share in the suit property in Para no. 4 and prayer clause by adding the words 'and not binding on the share of plaintiffs and partition and separate possession to the extent of 1/3rd share each of the plaintiffs of the suit land Gut no. 249 admeasuring 61 R situated at village Bhivgaon, Tal. Vaijapur, Dist. Aurangabad. The proposed amendment is necessary to avoid multiplicity of litigation, hence prayed to allow the application.

2. Defendants have filed their say and opposed the application stating that the original suit is only for declaration and plaintiff nowhere had placed facts about the partition in the plaint. Therefore this application is not tenable. By allowing said amendment the nature of suit will be changed and hence prayed to reject the application.

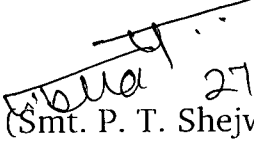
3. Perused the application and say. Heard both sides. On perusal of pleadings in plaint, it appears that plaintiffs had initially filed the suit for declaration in respect of sale deed bearing no. 2901/2018 of Gut no. 249 admeasuring 61 R land situated at Bhivgaon, Tal. Vaijapur, Dist. Aurangabad. By this application now plaintiffs wants to add pleadings regarding partition and claiming their share in suit property, with declaration that the sale deed is not binding to the extent of their share. Even though by this application plaintiff is seeking partition which is different from the original pleading and the nature of suit will change. However, the prayer is in respect of same suit property, thus to avoid multiplicity of litigation and for proper adjudication of matter, in my opinion the application needs to be allowed to avoid technical issues. Hence, I pass following order:-

27.8.21

ORDER

- 1- Application is allowed subject to cost of Rs. 500/-.
- 2- Plaintiffs to carry out amendment within 14 days from today.

Date : 27.08.2021.


(Smt. P. T. Shejwal-Kale)
Jt. Civil Judge (S. D.)
Vaijapur.

CERTIFICATE

I affirm that the contents of this PDF file are same, word to word, as per the original order.

Name of the Stenographer	: G.D.Ghule.
	[Stenographer Grade-3]
Court	: Smt. P. T. Shejwal-Kale,
	Jt. C.J.S.D., Vaijapur.
Date of order	: 27.08.2021
Order signed by the P.O.	: 27.08.2021
Order uploaded on	: 27.08.2021