

MHAU060003282018

**ORDER BELOW EXH. 19**

Present application is filed by the plaintiffs under order 1 rule 10 of the Code of Civil Procedure.

2. It is contended by the plaintiffs that, during pendency of the suit defendant no. 1 has sold some part of suit property to third person. Defendant no. 1 has sold 3 R. Land out of suit property to Nivrutti Namdev Kharat vide registered sale deed no. 913/2018 dated 21.02.2018. Thereafter, defendant no. 1 has sold 2 R. Land out of suit property to Karbhari Ashok Wahul vide registered sale deed no. 1673/2018 dated 23.03.2018. Thereafter defendant no. 1 has sold 2 R. Land out of suit property to Sanjay Sahebrao Tribhavan vide registered sale deed no. 3398/2018 dated 18.06.2018. Accordingly, during pendency of suit defendant no. 1 has executed aforesaid sale deed with respect to suit property. Therefore, plaintiffs want to add those third persons who have purchase some part of suit property during pendency of suit. Plaintiffs also want to make amendment in order to pray for cancellation of aforesaid sale deeds.

3. Defendants filed say below the application and contended that, on face of the record plaintiffs are neither owner nor possessor of the suit property. Plaintiff have no right to institute present suit. Therefore, pray for rejection of application.

4. Perused the record. Heard ld. advocates for both the sides.

5. The suit is for Declaration, possession and for perpetual injunction. On perusal of record it transpires that, plaintiff has already prayed for cancellation of sale deeds executed by defendants. The contentions of plaintiffs regarding sale of some part of suit property by defendant no. 1 to third person has not denied by defendants in their say. The application is supported by affidavit and therefore, its truthness can not be denied. If at all the defendant no. 1 has sold some part of suit property to third person then those third persons need to add as defendants in present suit in order to avoid further complications. Furthermore, if plaintiffs are allowed to amend the plaint with respect to prayer of cancellation of newly executed sale deeds of defendant no. 1 then it will not change the nature of suit. On the other hand it will avoid multiplicity of the proceeding. Furthermore, if the proposed amendments allowed then it will not cause any prejudice to the defendants nor the nature of the suit is going to change. Moreover the proposed amendments appears to be consequential to the addition of new defendants which are necessary for determining real question in controversy between the parties. Resultantly I pass following order;

ORDER

- 1) Application is allowed.
- 2) Nivrutti Namdev Kharat, Babasaheb Trimbak Shirsath, Karbhari Ashok Wahul, Sanjay Sahebrao Tribhuvan be added as defendant no. 9, 10, 11 and 12 respectively in the suit.
- 3) Plaint be amended as per Oder I Rule 10 sub-rule 4 of C.P.C.

- 4) Issue summons to new defendants as per Order I Rule 10 sub-rule 4 of C.P.C.
- 5) Plaintiffs are permitted to carry out proposed amendments within 14 days of this order.
- 6) Plaintiffs to supply amended copies of plaint to all defendants forthwith.

Kannad

04/02/2021

(Pankaj B. Pawar)

Jt. CJJD, Kannad

CERTIFICATE

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

Name of the Stenographer : Y. S. Mali
Court : Jt. C.J.J.D. & JMFC, Kannad.
Date : 04.02.2021.
Order signed by the
presiding officer on : 04.02.2021.
Order uploaded on : 05.02.2021.

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