

ORDER BELOW EXH.63

(Passed on this 26th day of July, 2022)

Perused application, say filed by defendant Nos. 5, 6 and 7. Heard advocate of plaintiffs and advocates of defendant Nos. 5, 6 and 7.

02. Present application filed by plaintiffs for addition of parties as defendants in the suit and for granting permission to make amendment in the plaint. It is contention of plaintiffs that due to inadvertence proposed defendants are not made party in the suit. Proposed defendants are necessary party in the suit. Plaintiffs were not aware about the R.C.A. No. 03/2019 pending in the Court of District Judge-1 at Warora. Plaintiffs are wants to make additional pleading in respect of how the proposed defendants are relatives of plaintiffs as well as how plaintiffs are co sharer of the suit property. If the proposed parties are made as defendants in the suit and proposed amendment made in the plaint, then no prejudice would be caused to defendants. He lastly prayed for allowing the application.

03. Advocate of defendant Nos. 5 and 6 filed say and strongly opposed to the application. It is argued by the advocate of defendant Nos. 5 and 6 that due to proposed amendment, nature of suit will be changed.

Plaintiffs were aware about the Appeal pending in the Court of District Judge-1, Warora. Defendants have raised the objection about the non-joinder of necessary parties by plaintiffs in the suit and thereafter present application filed by plaintiffs. Plaintiffs have filed present application to fill up the lacuna. He lastly prayed for rejection of application.

04. Advocate of defendant No. 7 filed say and strongly opposed to the application. Advocate of defendant No. 7 also argued as like the advocate of defendant Nos. 5 and 6. He lastly prayed for rejection of application.

05. It appears from record that trial of suit is yet to be commenced. Plaintiffs have appears to be filed suit for partition and possession. Plaintiffs have also sought the other reliefs of declaration, mandatory and temporary injunction. As plaintiffs have filed the suit for partition, in my opinion proposed defendants are necessary and proper parties in the suit for determination of the real matter in dispute. It also appears to me that proposed parties are necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit. In my opinion due to proposed amendment no nature of suit will be changed. It

also appears to me that in the event of allowing application defendants will get opportunity to file consequential amendment in respect of proposed amendment sought by plaintiffs. Proposed amendment appears to be necessary for the purpose of determining the real question in controversy between the parties and also to avoid multiplicity of the litigation. In my opinion application filed by plaintiffs is deserves to be allowed by imposing some costs. Hence, I pass the following order.:-

ORDER

- i) Application is allowed subject to costs of Rs. 1,500/-.
- ii) Plaintiffs to add proposed parties in the suit and make proposed amendment by filling amended copy of plaint and it's copy for other side on record.

Date: 26.07.2022

(A.J.Fatale)
Civil Judge (Sr.Dn),
Warora.