

MHCH100007132019

**ORDER BELOW APPLICATION VIDE EXH.23****IN R.C.S. NO.7/2019.**

(Mangala Vs. Bhaskar & othrs.)

1. The present application is filed by the plaintiff under Order 6 Rule 17 & Order 1 Rule 10 of Civil Procedure Code, 1908, for amendment in the plaint and addition of necessary party.

2. It is contended by the plaintiff that, she has filed present suit for declaration, partition and separate possession. The issues are framed but evidence affidavit is not yet filed. While preparing evidence affidavit the Advocate for the plaintiff realized that there are some typing mistake in the plaint. The plaintiff also got knowledge that during pendency of the present suit defendant no.1 has executed a gift-deed in favor of his wife. Therefore, the wife of defendant no.1 is necessary party and necessary pleadings regarding said gift-deed is required to be incorporated. Hence, the plaintiff has prayed for allowing amendment. She has submitted that, if amendment is allowed the nature of suit will not change and if it is rejected then she will suffer irreparable loss.

3. The defendant nos. 1 to 3 filed their say and submitted that present application is filed after framing of issues and only to delay present proceeding. If amendment is allowed then nature of suit will change. There is no any subsequent event

as alleged by the plaintiff. Hence, application be rejected. Proposed defendant no.4 appeared and adopted same say of the defendant no.1 to 3 vide pursis at Exh.28.

4. Perused the application and record, heard both parties. Following points arise for determination, finding to which, with reasons are as follows:-

POINTS	FINDING
i] Whether the plaintiff is entitled to the amendment as sought ?	In the affirmative
ii] What order ?	As per final order.

REASONS

As to Point no.1:-

5. The present suit is filed by the plaintiff for declaration, partition and separate possession. The issues are framed on 03/07/2020 at Exh.18 and thereafter matter was posted for evidence of the plaintiff. On 10/12/2021, present application is filed. It appears that there are some typo-graphical error which plaintiff wants to correct in his plaint. Said changes can be allowed as they are technical in nature.

6. The plaintiff has sought to add wife of defendant no.1 as defendant no.4 on the ground that the defendant no.1 has executed gift-deed regarding the suit property in her favor. Said fact is denied by the defendants. However, at this stage the merits of the contentions are not necessary and only the aspect is to be considered is that whether the amendment sought is necessary for the effectual decision of the case. The plaintiff has

positively contended that the defendant no.1 has executed gift-deed. Said fact is not specifically denied by the defendants and the defendants will have opportunity to challenge said fact as evidence is not commenced in the matter. Considering the nature of suit all the necessary facts and events regarding the suit property is necessary. Also, the gift-deed is regarding the suit property and hence the wife of defendant no.1 also becomes necessary party to the suit. Therefore, the amendment is necessary to decide all disputed questions in present matter. The amendment will not change the nature of suit as only subsequent event is sought to be added. Therefore, application deserves to be allowed and point no.1 is answered in affirmative and point no. 2 is answered as follows.

ORDER

- 1) Application Exh. 23 is hereby allowed.
- 2) The plaintiff is directed to carry out the amendment within 14 days.
- 3) The plaintiff to supply copy of amended plaint.

Date: 16/07/2022.

**(Pankaj K.Ahir)
Civil Judge, J.D.,
Mul.**

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 : S.N. Bhagwat
Court : C.J.J.D. & JMFC, Mul.
Date : 16/07/2022
Order signed by the
presiding officer on : 16/07/2022
Order uploaded on : 16/07/2022

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