

CNR NO. MHGA090002022022



**IN THE COURT OF JOINT CIVIL JUDGE (JUNIOR DIVISION), CHAMORSHI**  
**(Presided Over by Diksha D. Vighne)**

**Regular Civil Suit No. 06/2022**

Shri. Homdeo Raghunath Gawhare  
Age :- 75 years, Occ.:- Agriculture,  
R/o. Ward no.3, Chamorshi  
Tq.-Chamorshi, Dist.-Gadchiroli.

----- **Plaintiff**

**-Versus-**

1. Ramdas Raghunath Gawhare,  
Age :- 55 years, Occ.:- Agriculture,
2. Jivandas Raghunath Gawhare,  
Age :- 50 years, Occ.:- Agriculture,  
Both R/o. Ward no. 3 Chamorshi,  
Tq.-Chamorshi, Dist.-Gadchiroli.

----- **Defendants**

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**Appearance:-** Advocate for Plaintiff :- Smt. M. K. Atmande  
Advocate for Defendants :- Shri. V. G. Chilange  
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**Order Below Exh.21**

(Passed on 18/01/2023)

This is an application under Order VI Rule 17 of Code of Civil Procedure for amendment in pleading (plaint).

2. Perused application and say thereon. Heard learned advocate Smt. M. K. Atmande for plaintiff and learned advocate Shri. V. G. Chilange for defendants.

3. Plaintiff has stated in this application that he has filed this suit for declaration of cancellation of relinquishment deed and

permanent prohibitory injunction. Because of subsequent changes during the pendency of suit, plaintiff wants to amend his plaint by adding prayer regarding restraining defendants from alienating the suit property or from creating encumbrance or third party interest thereon in any manner whatsoever. According to him, the present amendment is necessary for proper adjudication of suit and for proper justice to both parties. Moreover, the written statement of defendant is not yet on record hence at this stage the present amendment does not fluctuate any right of defend. However, if they amendment is not allow then it will cause irreparable loss to plaintiff. Hence, in the interest of justice he has prayed for grant of permission to amend the plaint.

4. It is submitted by learned advocate for plaintiff Smt. M. K. Atmande that at the time of filing of this suit there were no apprehension that defendants will alienate suit property. But during pendency of this case the plaintiff had got knowledge that defendants wants to alienate suit property. Therefore, the plaintiff for protecting his interest from alienation of suit property, creating encumbrance or third party interest, wants to add this prayer in prayer clause of plaint through amendment. Therefore, she has prayed for grant of permission to amend the plaint.

5. The learned advocate for defendants has strongly opposed the application. He has submitted that, there is no mention of third party with whom defendants want to create third party interest. Moreover, in the plaint there is no mention of any apprehension of creating third party interest by defendants. The pleading in plaint and the proposed prayer are not corroborated with each other. Therefore, he has prayed for rejection of application. If it is allow then heavy cost to be imposed.

6. I have perused record of the case it is seen that the defendants are yet to file their written statement. As per, the submission of plaintiff he has received apprehension of creating third party interest by defendants during the pendency of this case. It is clear position of law that for showing apprehension of creating third party interest there is no need of showing any documentary proof for adding this prayer by amendment. Mere, apprehension by plaintiff is sufficient. As per, Order VI Rule 17 the court may at any stage of this proceedings can allow either party to alter or amend his pleadings in such manner and on such term as may be just and all such amendments shall be made as may be necessary for determining the real question in controversy between the parties. As per, this rule all possible opportunities should be given to the parties for putting their case before court. In this case the defendants are yet to file their written statement. They will receive all opportunities to put up their defence. The present amendment does not cause any prejudice to the defendants. Moreover, it is necessary for the purpose of determined the real question in controversy between the parties. Therefore, I find that the present amendment can be allow subject to cost. In the result I pass following order.

**ORDER**

1. Application is allowed with cost of Rs. 300/- payable to defendants.
2. Plaintiff is directed to carry out amendment and filed amended copy of plaint on 01-02-2023.

Date: 18.01.2023

(Diksha D. Vighne)  
Jt. Civil Judge (Jr. Dn.),  
Chamorshi.

**CERTIFICATE**

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

Name of Stenographer : Mr. M.R.Mohurle, Stenographer (Grade-3)

Name of Court : Jt. Civil Judge (Jr.Dn.) & JMFC, Chamorshi.

Date of Judgment : 18/01/2023.

Judgment checked and

signed by Presiding Officer on : 18/01/2023.

**Judgment uploaded on : 18/01/2023.**