

Spl.Civ.Suit No.41/2014  
Bharat Vs. Manisha & Oths.**Order Below Exh.49 in Spl. Civ. Suit No. 41 of 2014**

The plaintiff has filed this application for carrying out amendment in the application below Exh.05.

2. Brief facts necessary for the disposal of this application are as under:-

Originally, the plaintiff has filed this suit against the defendants No. 1 to 5 for specific performance and permanent injunction. Subsequently, Rajni Kailas Newasekar moved an application below Exh.16 as per Order I Rule 10 of Code of Civil Procedure for her impleadment as a defendant. The said application came to be granted on 15/06/2014. Thereafter, plaintiff impleaded Rajni Kailas Newasekar as defendant No.6. However, no consequential amendment carried out in application below Exh.05 filed by the plaintiff for relief of temporary injunction against the original defendants No. 1 to 5. Hence, the plaintiff has filed present application for amendment in the application below Exh.05 for adding Rajni Kailas Newasekar as defendant No. 6 and consequential amendment in the prayer clause.

3. Despite sufficient opportunity, the defendant No. 6 failed to file her say. Hence, this application is proceeding without her say.

4. Heard learned counsel for both parties. Perused material available on record.

5. Perusal of record reveals that, originally the suit was filed against the defendants No. 1 to 5 only. Later on, the defendant No. 6 Rajni Kailas Newasekar came to be joined as defendant No.6. However, no such consequential amendment took place in Exh.05.

The plaintiff has filed this suit for specific performance of agreement dt. 10/07/1998 executed by deceased Imannual Mustfa ali Abbasi. The defendants No. 1 to 5 are legal heirs of Imannual. They avoided to execute sale deed in favour the plaintiff. On 12/05/2014, the defendants No. 1 to 5 executed sale deed in favour of defendant No.6. In the application below Exh.05, the plaintiff has prayed for prayer for restraining the defendants from alienating the suit property to third party.

6. By way of present application, the plaintiff want to include relief of temporary injunction against the defendant No.6 thereby restraining her from interfering, obstructing, creating third party interest in the suit property. Admittedly, the present suit came to be filed on 26/04/2014 and the suit property has been sold to defendant No.6 on 12/05/2014 i.e. after institution of the suit. Having regard to the all these facts amendment sought by the plaintiff appears to be consequential one and necessary for the just decision of the case. No prejudice will be caused to the defendant no.6 by allowing present application. Under such circumstances, present application deserves to be granted. In the result, I pass the following order.

**ORDER**

- 1) The application is allowed.
- 2) The plaintiff is permitted to carry out the necessary amendment in the application below Exh.05 on or before 15/12/2015.

Date : 07/12/2015

(A. R. Ubale)  
5<sup>th</sup> Jt. Civil Judge S.D.  
Jalna.

(3)

Spl.Civ.Suit No. 41/14  
(Exh.49) Ord.

Bharat Vs Manisha & Oths.

**CERTIFICATE**

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

Name of Steno : P. T. Bura  
Name of court : 5<sup>th</sup> Jt. Civil Judge (S.D.), Jalna  
Date of PDF :

( P. T. Bura. )  
Stenographer