

ORDER BELOW EXH.103
(Passed on 05.02.2024)

1. Heard learned advocate for both parties and perused record.

2. The plaintiffs have filed present application under Order 6 Rule 17 of CPC for amendment in the plaint. It is submitted that, they came to know about the sale-deeds no.1198/1997 and 1199/1997 dated 30.04.1997 from the written statement filed by defendant no.7. Both the sale-deeds are not signed by Bhaurao Mukundrao Bhosle and therefore,those are not binding upon share of plaintiffs. They are seeking permission to amend their plaint by adding those contents in their plaint.

3. On the contrary,the defendant no.7 has filed his say vide Exh.106 and denied the contents of application filed by plaintiffs. According to him,he has purchased suit property from defendant no.6 for the consideration of Rs.1,31,00,000/-. The defendant no.6 had purchased the same from defendant no.1 to 5 for the consideration of Rs.15,00,000/-. The plaintiffs have already challenged those sale-deeds without paying the court fees in that respect. Moreover,the proposed amendment will change the nature of suit and plaintiffs have already admitted the ownership of defendants. Therefore, they prayed for rejection of the application.

4. It is not disputed that,the plaintiffs have filed present suit for partition and separate possession of their undivided share in the

suit property i.e.Gat no.160 Adm.01H65R situated at Mauje Kharpudi Jalna as well as permanent injunction against the defendants. According to plaintiffs,they came to know about the sale transactions dated 30.04.1997 after filing written statement by the defendant no.7. Thereafter, they inquired about those sale transactions from the Sub-Registrar Office and came to know that,the signature of Bhaurao Mukundrao Bhosle on the disputed sale-deeds are forged and illegal sale-deeds were executed. Therefore,those sale-deeds and sale transactions are not binding upon the undivided share of plaintiffs.

5. Already issues have been framed vide Exh.102 and suit was fixed for evidence of plaintiffs. However,evidence affidavit of plaintiffs is yet to be filed. Therefore,evidence of plaintiffs is not started. Moreover,the main object of Order VI Rule 17 of CPC is to determine the real question in controversy between the parties. As already stated the plaintiffs have claimed their undivided share in the suit property which has been purchased by defendants. Further more, there is issue no.3-wherein plaintiffs have to prove the transactions done by defendants are illegal? Therefore,in the circumstances no prejudice would be caused to the defendants nor nature of the suit will be changed, if the plaintiffs are allowed to amend their plaint by way of proposed amendment. In fact,it would help both the parties to determine their real question in controversy by contesting the suit on merit. Hence,application filed by plaintiffs deserves to be allowed with the following order :

ORDER

1	Application filed by plaintiffs vide Exh.103 is hereby allowed.
2	The plaintiffs to carry out the necessary amendment within the statutory limitation.
3	Application is accordingly disposed off.

Date:-05.02.2024

(Smt.Madhuri R.Khanwe)
Jt.Civil Judge (Sr.Divn.)
Jalna

CERTIFICATE

I stated that the contents of this PDF file are word to word as per original

Order.

Name of Steno : *Shirish D.Deshmukh.*
Name of Court : Jt.Civil Judge(Sr.Divn.),Jalna
Date of PDF : 05.02.2024.

Steno(M.)