

MHKO070010952011



ORDER PASSED BELOW EXH. 88

1] By way of this application filed under Order 6 Rule 17 of Code of Civil Procedure, plaintiff has sought amendment in the plaint. According to plaintiff, during pendency of suit, defendant has transferred suit plot to one Sarika and therefore, plaintiff wants to add said purchaser as a defendant No.5 and he wants to sought relief that sale deed executed in her favour is not binding on the plaintiffs right and he also wants to seek mandatory injunction in respect of construction carried out by proposed defendant No.5.

2] Defendant Nos. 2 and 3 filed say at Exh.92 and opposed to allow this application contending that, this is a part-heard matter and now at this stage permission can not be granted to amend the plaint. Plaintiff has not specifically mentioned as to when he saw name of purchaser in the 7/12 extract hence, he prayed for rejection of application.

3] Defendant No.1 filed his say at Exh. 93 and prayed to reject this application. According to defendant, plaintiff should have filed application under Order 1 Rule 10 of C.P.C. Application under

Order 6 Rule 17 of C.P.C. is not maintainable. Already plaintiffs witnesses are examined and therefore, at belated stage application for amendment is not tenable. Hence, prayed for rejection of application.

4] Heard both side and gone through record. It is necessary to mentioned here that, sale deed in question is executed in the year 2019 only and thereafter, immediately present application is filed by plaintiff. Proposed amendment is in respect of subsequent developments. If, permission is granted to plaintiff to amend the plaint and lead evidence, it will reduce further complications. Other side will get opportunity to plead their case and lead evidence. Application deserves to be allowed. In result, I proceed to pass following order.

ORDER

Application is allowed and permission granted to carry out amendment as prayed by plaintiff.

Date -20.02.2021.
Jaysingpur.

Sd/-
(K.G. Sawant)
Civil Judge, Sr. Division,
Jaysingpur.