



Balaso Tatoba Aalate Vs. Mahaveer Aannaso
Aalate

CNR - MHKO130004562008

ORDER BELOW EXH. 140 IN R.C.S.No. 88/2008

1. This application is filed by the Plaintiff vide Order 6 Rule 17 of the Code of Civil Procedure for amendment in the plaint. It is submitted that suit of Plaintiff is for partition and perpetual injunction. The suit was decreed by this Court. The Defendants preferred appeal bearing RCA No. 330/2015. The Hon'ble Appellate Court was pleased to remand the suit and the suit is pending before this Court. It is submitted that before the Appellate Court it is pleaded that Defendant No. 7 Gangubai Kalgonda Murchute has relinquished her share voluntarily in the suit properties. It is submitted that in paragraph No. 5 of the plaint Plaintiff has pleaded that his sister Gangubai has relinquished her share in the suit property in the year 1983 but the fact about relinquishment of share in the presence of Inspector of land records on 12/12/1989 needs to be taken on record. Hence he has prayed to amend the plaint.

2. Defendant No. 1A to 1C by way of Say overleaf the application opposed the application mainly on the ground that the proposed amendment which the Plaintiff wants to bring on record is already pleaded in the plaint. No new fact is to be brought on record. Hence the application be rejected.

3. Defendant No. 7A, B and C filed their Say at Exh. 93 and opposed the application on similar ground that the proposed

amendment is not new and the said fact is already on record.

4. Heard learned counsel for Plaintiff and Defendants. Perused the record. Suit of Plaintiff is for partition and perpetual injunction. Admittedly the suit of Plaintiff was decreed, Defendants had preferred appeal bearing RCA No. 330/2015. The Hon'ble Appellate Court has remanded the matter back to this Court mainly on the ground that Defendants No. 4 to 6 therein were not party to the original suit and there is no evidence on record in regard to the issue with respect to relinquishment of right in the suit property by Gangubai and Respondent No. 4 to 6 therein.

5. On perusal of the plaint in paragraph No. 5 it is specifically pleaded that the sister of Plaintiff namely Gangubai in the year 1983 voluntarily had relinquished her share in the suit property. The proposed amendment which the Plaintiff seeks to add in the form of relinquishment of right by Gangubai and her Say before the inspector of land records is already on record and there are no new facts discovered after the institution of suit. In such circumstances the proposed amendment is not necessary to decide the real controversy between the parties. Accordingly the application is liable to be rejected. Accordingly I pass following order.

Order

1.	Application is rejected.
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Kagal
Date:- 30/01/2026

(A.B.Madake)
Civil Judge Junior Division,
Kagal.