

**Order below Exh.93 in Regular Civil Suit No.8/2008.**

This is an application moved by the plaintiff under Order 6 Rule 17 of the Code of Civil Procedure for amendment of plaint.

2) Heard learned advocate Shri. R.P Bandiwadekar for the plaintiff. Perused the application and say vide Exh.105.

3) Plaintiff contended that defendant No.5 Joseph Tatoba Dhupdale has sold out 0-H 04.5-R land out of suit land Gat No.757 admeasuring 27-R to Sou. Minaj Sallauddin Mulla by executing registered sale deed dated 31/03/2015. The alleged sale transaction was made during the pendency of the suit. Hence, by way of this application, plaintiff wants to incorporate pleading that defendant No.5 without the knowledge of plaintiff during the pendency of suit has illegally sold out 0-H 04.5-R land out of suit land Gat No.757 by executing registered sale deed dated 31/03/2015 in favour of Sou. Mijan Sallauddin Mulla. Plaintiff has also sought the relief that said sale deed be declared as not binding on her share. Hence, the application.

4) The purchaser Sou. Minaj Sallauddin Mulla contested the application by filing her say vide Exh.105. She denied the averment in the application. However, she admitted the execution of registered sale deed dated 31/03/2015 in her favour. She contended that she is bonafide purchaser for value without notice. Hence, the application is liable to be rejected.

5) Plaintiff has contended that defendant No.5 has sold out 0-H 04.5-R land out of suit land Gat No.757 by executing registered sale deed dated 31/03/2015 in favour of Sou. Minaj Sallauddin Mulla. To substantiate this fact, plaintiff has filed copy of sale deed vide Exh.107/1. The perusal of said sale deed revealed that defendant No.5 named Joseph Tatoba Dhupdale sold out 0-H 04.5-R land out of suit land Gat No.757 in favour of Sou. Minaj Sallauddin Mulla. The alleged sale deed was executed during the pendency of the suit. Hence, by way of this application, plaintiff sought relief of declaration that alleged sale deed is not binding on her share. Hence, I hold that there is substance in the application.

6) Furthermore, if application is allowed then no prejudice or harm will be caused to the alleged purchaser Sou. Minaj Sallauddin Mulla. On the contrary, it will be helpful to determine the real controversy between the parties. However, as plaintiff has caused delay to sought the amendment. Hence, plaintiff has to compensate to the Government for the delay caused. Hence, application deserves to be allowed by

imposing costs. Therefore, I proceed to pass the following order.

Order

1) Application is allowed subject to depositing costs of Rs.500/- (Rupees five hundred fifty only) in the Court on or before next date.

2) On depositing costs of Rs.500/- Assistant Superintendent is directed to credit the same to the Government.

3) After compliance of clause (1) plaintiff is permitted to carry out the amendment as prayed and file copy of amended plaint.

4) Failure to comply the order on or before next date, application shall be deemed to be rejected.

Dated:- 19/04/2017.

Sd/-  
( M. D. Thombare )  
Civil Judge, Jr. Dn., Chandgad.

**C E R T I F I C A T E**

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

Name of the Stenographer	Shri. V. L. Tadkod, L. G. Stenographer.
Name of Court	Shri. M.D. Thombare, Civil Judge, Junior Division and Judicial Magistrate, First Class, Chandgad.
Date of Dictation	19/04/2017
Judgment/Order signed by the P. O. on	19/04/2017
Judgment/Order uploaded on	19/04/2017