

Order below Exh. 83 in Regular Civil Suit No. 29/2006.

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. S.S.Kot for the plaintiff and learned advocate Shri. V.G.Desai for the defendants.

3) Plaintiff contended that he filed the present suit for the relief of partition and separate possession. The D.W.1 in his examination-in-chief stated that land Gat No.87 is recorded in the name of Sou. Madeena Allauddin Saiyad, who is daughter of the plaintiff. Therefore, she is necessary party to the suit. Hence, plaintiff wants to add Sou. Madeena Allauddin Saiyad as party to the suit.

4) Plaintiff further contended that D.W.1 further deposed that plaintiff has not included CTS No.585 in common hotchpot. The CTS No.585 was in possession of Sou. Khatalbee Abbas Mulla and Sou. Rasulabee Imtihj Mulla. Hence, plaintiff wants to add Sou. Khatalbee and Sou. Rasulabee as defendants in the suit and include CTS No.585 in the common hotchpot.

5) Plaintiff further contended that he wants to attach the hand-sketch map of lands Gat No.185 and 228 along with plaint. Accordingly plaintiff wants to amend the Court fee and jurisdiction column. Plaintiff further contended that proposed amendment is necessary for proper adjudication of the matter in dispute and to meet the ends of justice. Hence, the application.

4) The defendant No.1 and 2A filed their say vide Exh.85. Defendants contended that plaintiff should have filed two separate applications for amendment and addition of parties. The plaintiff has falsely contended that amendment is necessary for the proper adjudication of the suit. The plaintiff has adduced oral and documentary evidence. Hence, at this belated stage the application is liable to be rejected. Hence, the application be rejected.

5) It is true that plaintiff has closed his oral evidence. The perusal of evidence of D.W.1 revealed that he contended that suit land Gat No.87 is recorded in the name of Sou. Madeena Allauddin Saiyad. As the plaintiff contended that CTS No.585 corresponds to VPC No.318 is in possession of Sou. Khatalbee Abbas Mulla and Sou. Rasulabi Imtihj Mulla. As the plaintiff has contended that CTS No.585 is the ancestral property and suit is filed for partition

and separate possession. Therefore, all the ancestral properties should have been brought in common hotchpot. If the application is rejected, then there would not be final adjudication of the suit and it would cause unwarranted litigation. Furthermore, if the application is allowed, then defendants have an opportunity to file their additional written statement. Hence, no prejudice would be caused to them. Therefore, to determine the real controversy between the parties application deserves to be allowed.

6) Admittedly, the plaintiff has filed this application at belated stage. Hence, plaintiff has to compensate to the defendants as well as to the Government for the delay caused. Hence, application deserves to be allowed by imposing costs. Therefore, I proceed to pass the following order.

O r d e r

1) Application is allowed subject to costs of Rs.1,000/- (Rupees One thousand only).

2) Plaintiff is directed to pay costs of Rs.800/- to the defendants and deposit costs of Rs.200/- in the Court, on or before next date.

3) After depositing the costs of Rs.200/- in the Court, the assistant superintendent is directed to credit the same to the Government.

4) After compliance of above clauses, the plaintiff is permitted to carry out the amendment as prayed and to file the copy of amended plaint, on or before next date.

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

Sd/-

(M. D. Thombare)

Civil Judge, Jr. Dn., Chandgad.

Dated:- 05/08/2016.

CERTIFICATE

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. Tatkod, L. G. Stenographer.
Name of Court	Shri. M.D. Thombare, Civil Judge, Junior Division and Judicial Magistrate, First Class, Chandgad.
Date of Dictation	05/08/16
Judgment/Order signed by the P. O. on	05/08/16
Judgment/Order uploaded on	06/08/16