

MHKO150001942017



**R.C.S.No. 30/2017**  
Vitthal vs. Tukaram

**ORDER PASSED BELOW EXH. 35**

This is an application filed by plaintiff under Order VI Rule 17 of Civil Procedure Code for amendment of pleading.

2. According to plaintiffs, they have filed present suit for permanent injunction. The plaintiff Thalu Rama Kamble died during pendency of suit. The Thalu Kamble has executed will in respect of suit property in favour of Shalan Subhash Kamble. Therefore, plaintiffs wanted to amend plaint and to insert pleading in respect of will deed. The plaintiff lastly prayed for allowing the application and prayed permission for amend pleading.

3. The defendants have filed their say. They have denied all allegation, pleading and prayer of plaintiff and strongly objected to amendment application. They lastly prayed for rejection of application.

4. Heard learned advocate Shri. A. S. Farakate for plaintiff and advocate Shri. J. G. Didbag for defendant.

5. Perused application, say and record.

6. On perusing record it appears that, the plaintiffs have

filed present suit for permanent injunction. According to plaintiff, their right involved in suit property.

7. By way of present application, plaintiff wanted to insert pleading in respect of will which was executed by original plaintiff Thalu Rama Kamble in favour of Shalan Subhash Kamble in respect of suit property. The plaintiffs have wanted to insert pleading in respect of will deed and suit property. The proposed amendment is necessary for determining real question of controversy between parties. The proposed amendment does not change the nature of suit. But it is needed for deciding matter. The proposed amendment does not harmful to the defendant. If application allowed then, no irreparable loss will be caused to the defendant.

8. Considering all above discussion I conclude that, the proposed amendment is necessary to determine real controversy between the parties. If application allowed then, no irreparable loss will be caused to the defendant. The proposed amendment does not harmful or prejudiced to the defendant. In this circumstances, the application needs to be allowed. Hence, I pass following order,

### **ORDER**

1. The application is allowed.
2. The permission is granted to the plaintiff for amend pleading accordingly.
3. The plaintiff is directed to carry out amendment within 14 days.

Date : 31/01/2023.

(S. P. Jadhav)  
Civil Judge J.D., Ajara.

### **Certificate**

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

Name of the Stenographer	Mrs. Y.S. Chavan
Name of Court	C.J.J.D. Ajara
Judgment / Order dictated on	31-01-2023
Judgment / Order typed on	31-01-2023
Judgment / Order signed by the P. O. on	31-01-2023
Judgment / Order uploaded on	31-01-2023