

MHKO150002172013**R.C.S.No. 84/2013**
Ravindra vs. Sarika**ORDER PASSED BELOW EXH. 60**

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

2. According to plaintiff, he has filed present suit for perpetual injunction. After filing of present suit, the plaintiff has received information in respect of documents of defendant. That time plaintiff got knowledge that, the Tukaram Parit has mutated her name by resolution of Grampanchayat. The w.s. filed by defendant. In that w.s., they have pleaded that, after passing resolution and after mutation of name of Tukaram, the defendant no. 1 has purchased property from Tukaram Hari Parit. The Grampanchayat has made resolution in respect of Tukaram Hari Parit. After mutation of name of Tukaram Hari Parit, he has sold out property in favour of defendant no. 1. By that transaction, defendant no. 1 is owner of her property. After filing of written statement, the plaintiff got knowledge about the transaction between defendant no. 1 and Tukaram Hari Parit and about the resolution of Grampanchayat. Therefore, plaintiff wanted to insert pleading in respect of resolution, sale deed and to add Tukaram Hari Parit as defendant in present suit. According to plaintiff, the sale deed which is executed in favour of defendant no. 1 is void ab-initio and not binding on the right of plaintiff. The plaintiff lastly prayed for allowing the application and prayed permission for amend pleading.

3. The defendants have failed to file their say. Therefore, application proceeded without their say.

4. Heard learned advocate Shri. A. G. Deshpande for plaintiff. None present of behalf of defendant.

5. Perused application and record.

6. On perusing record it appears that, the plaintiff has filed present suit for perpetual injunction on 03.05.2013. According to plaintiff, he has right in suit property. The defendants have obstructed to his possession. Therefore, he has filed present suit for perpetual injunction.

7. The defendants have appeared and filed their written statement at Exh. 15 on 15.01.2014. On perusing the written statement of defendant, it appears that, the defendants have pleaded about the sale deeds of them and they have pleaded about the sale deed executed in their favour on 14.03.2013. The plaintiff filed present suit on 03.05.2013. It means, after execution of sale deed plaintiff has filed present suit against defendant. The defendants have filed their written statement on 15.01.2014. It means, defendant pleaded about their sale deed on 15.01.2014. The plaintiff is well aware about the sale deed since from 15.01.2014. By way of present application, plaintiff wanted to insert pleading about the sale deed. The present application filed on 22.11.2021. The plaintiff pleaded that, the sale deed is not binding on him. The sale deed executed on 14.03.2013, it means prior to filing of present suit. By way of present application, plaintiff wanted to insert relief that is the sale deed is not binding on him. The present application filed on 22.11.2021. It means, after laps of eight years, the plaintiff wanted to insert relief about the sale deed.

8. The plaintiff wanted to add Tukaram Hari Parit as defendant. On perusing present application, it appears that, the plaintiff has not pleaded that, the Tukaram Hari Parit has obstructed to his possession. The plaintiff pleaded that, the Tukaram Hari Parit has executed sale deed in favour of defendant no. 1. Mere execution of sale deed in favour of defendant no. 1 does not get cause of action in favour of plaintiff to file suit against Tukaram Hari Parit. The plaintiff pleaded that, the name of Tukaram Hari Parit recorded by passing resolution of Grampanchayat. The record shows that, the name of Tukaram Hari Parit recorded prior to execution of sale deed and prior to filing present suit. The plaintiff has not given any reason why he has not added the proposed pleading in present suit at the time of filing present suit.

9. The record shows that, the plaintiff wanted to insert pleading after eight years. This circumstances shows that, the plaintiff is not diligence. The suit is for hearing. The issues of present suit framed on 18.02.2014. Since from 18.02.2014, suit is for hearing. The trial of present suit is commenced on 18.02.2014 at the time of framing issues. The plaintiff has not given any reason, why he has not prayed proposed amendment previously. There is no any reason given by plaintiff to file the present application after eight year.

10. Considering all above discussion, I am coming to conclusion that, the plaintiff is not due diligence. The trial of present suit is commenced. The plaintiff has not given any reason. The Tukaram Hari Parit is not necessary party to present suit. The proposed amendment is not necessary for determine real dispute in controversy between parties. Therefore, I am not found any substance in the application. Hence, the application needs to be rejected. Therefore, I pass following order,

ORDER

1. The application is rejected.
2. Considering peculiar circumstances, there is no order as to cost.

Date : 14/03/2022.

(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	14-03-2022
Judgment / Order typed on	14-03-2022
Judgment / Order signed by the P. O. on	14-03-2022
Judgment / Order uploaded on	16-03-2022