

MHKO150002352022



R.C.S. No.50/2022

Rahul Bhuiambar vs. Surekha Patil.

ORDER PASSED BELOW EXH. 39

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

2. According to defendant, plaintiffs have filed present suit for perpetual injunction. According to defendant, as per judgment of R.C.A. No. 67/2008 defendant's father Maruti Narayan Bhuiambar is owner of suit property. Therefore, defendant wanted to insert pleading in that respect. The defendant lastly prayed for allowing the application and prayed permission for amend pleading.

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

4. Heard learned advocate Shri. D. D. Ajagekar for defendant and advocate Shri. R. M. Kole for plaintiff.

5. Perused application, say and record.

6. On perusing record it appears that, the plaintiffs have filed present suit for perpetual injunction. According to defendant, as per

judgment of R.C.A. No. 67/2008 defendant's father Maruti Narayan Bhuimbar is owner of suit property.

7. By way of present application, defendant has wanted to insert pleading in respect of judgment of R.C.A. No. 67/2008 and defendant's father Maruti Narayan Bhuimbar is owner of suit property. By way of proposed amendment defendant has wanted to insert some clarification in respect of ownership. The present 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 plaintiff. If application allowed then, no irreparable loss will be caused to the plaintiff.

8. The proposed amendment is necessary to determine real question and controversy between the parties. The trial is not commenced. Hence, the application needs to be allowed. Therefore, I pass following order,

ORDER

1. The application is allowed.
2. The permission granted to defendant to amend the plaint accordingly within fourteen days from today.
3. Considering peculiar circumstances, there is no order as to cost.

Date : 24/07/2023.

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