

Order below Exh.1 in RCS No.64/2019

This is a suit for partition and separate possession. The suit is proceeding ex-parte against defendant nos.1 to 5. Defendant No.6 has filed its WS at **Exh.24**. Issues are framed at **Exh.26**. Plaintiffs examined plaintiff No.3 Gundabai @ Sojarbai Shesherao Bandgar as PW No.1 at **Exh.19** on 07/10/2019. No cross order at **Exh.19** came to be passed on 10/12/2019. In the meantime, plaintiff No.3 Gundabai Bandgar died and prusis to that effect is filed at **Exh.30**.

2. Record shows that thereafter plaintiffs moved an application at **Exh.32** under Order VI Rule 17 CPC for amendment of pleadings. This application came to be allowed by order dated 22/06/2024 and plaintiffs were permitted to carry out proposed amendment in para No.3 of the plaint. Accordingly, plaintiffs carried out proposed amendment in the plaint and added last sentence in para No.3 of the plaint. However, in addition to this learned advocate for plaintiffs has stated the amended facts in the affidavit of chief examination of plaintiff No.3 at **Exh.19**. This fact is brought to the notice of this Court by defendant No.6 vide prusis at **Exh.36**. It was the duty of plaintiffs to adduce additional evidence in respect of the facts in the plaint by way of amendment. Instead of doing so plaintiffs have done an act which is completely unacceptable and unexpected by the law. Hence, I pass following order:-

ORDER

1. The evidence of plaintiff No.3 Gundabai @ Sojarbai Shesherao Bandgar examined as PW No.1 at **Exh.19** is hereby discarded.
2. Plaintiffs shall proceed with the matter without any delay.

Date :08/01/2025

(Ashish B. Marlecha)
Civil Judge (Sr.Dn.),
Nilanga, Dist. Latur.