



RCS No.89 of 2015

CNR No.MHLA130005782015

**Mannabee Shaikh Vs. Tabasum Shaikh+3**

**Order below Exh.68**

**(Dt.07-12-2023)**

1) This application is filed by the plaintiff. It is her contention that an application Exh.57 was filed by her seeking permission to amend the plaint. That application is allowed and accordingly plaint is amended. Now, as the plaint is amended, additional issue is necessary to be framed in respect of said amendment. Hence prayed to frame addition issue as -

“Whether the suit property was self-acquired property of Rabanni and Mehtab, i.e. the sons of plaintiff.”

(वादग्रस्त मिळकत वादीची मुले रब्बानी व महताब यांची स्वकष्टार्जित मिळकत होती का?)

2) The application is opposed by the defendants by filing say overleaf. It is the contention of the defendants that the plaintiff has filed this application only to prolong the litigation. The application sans merit. Hence, it deserves to be rejected with costs of Rs.5000/-

3) Perused application and say of plaintiff. Heard both the sides at length. Having regard to the rival contentions of the parties, following points arise for my determination. I have recorded my findings against them for the reason stated hereunder.

**Points for determination**

<b>Sr.</b>	<b>Points</b>	<b>Findings</b>
(1)	Whether additional issue, as claimed by plaintiff is necessary to be framed?	... Yes.
(2)	What order?	... Application is allowed.

## **REASONS**

### **Point No.1 and 2**

4) It is important to note here that this is a suit for declaration of ownership and perpetual injunction. After the suit is filed the plaintiff filed an application Exh.57 seeking permission to amend the plaint. That application came to be allowed by an order dt.12-12-2022. Accordingly, the plaintiff carried out amendment and filed on record the amended plaint. It is further seen that defendants filed a pursish at Exh.62 and thereby declared that they do not want to carry out any consequential amendment after the plaint is amended. As such, the matter is posted for next stage.

5) My learned predecessor, framed additional issue as issue - "1-अ. दावा वा मिळकत ही वादी यांची स्वकष्टार्जित मिळकत आहे हे वादी सिद्ध करतात का?" The said issue is framed due to amendment in the plaint. Now the plaintiff wants to frame additional issue to the effect that whether the suit property is self-acquired property of Rabbani and Mehtab (i.e. the sons of plaintiff)

6) It is important to note here that the plaintiff came with the case that the father of plaintiff gifted that property to his grand-sons namely, Mehtab and Rabbani (i.e. the sons of plaintiff). It is further case of the plaintiffs that as the property was gifted to them, they became absolute owners of that property and the property became their self-acquired property.

7) By way of amendment the nature of rights of Mehtab and Rabbani over the suit property as well as the source of their title or right over the suit property is averred. Certainly, that would be a disputed point and judicial decision on the said point is necessary. The issues, which are already framed at Exh.45 are not sufficient to address that question. Hence, additional issue, as proposed by the plaintiff is necessary to be framed. Hence, for the reasons discussed above, point No.1 is answered in the affirmative

and for the same reasons in answer to point No.2 following order is passed.

**ORDER**

- (1) Application is allowed.
- (2) Additional issue, i.e. issue No.5 as follows is framed  
“(5) वादग्रस्त मिळकत वादीची मुले रब्बानी व महताब यांची स्वकष्टार्जित मिळकत होती का?”
- (3) Necessary addition is made at Exh.45.
- (4) Parties to note.

Dt.07-12-2023

Sd/-  
(R. B. Hanwate)  
Civil Judge, Junior Division, Renapur,  
Dist. Latur.