

Order passed below Exh.43 in R.C.S.No.562/2014

(Vishnu Vs. Subhash & oths.)

CNRNO.MHLA14001526-2014

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

2. According to plaintiff, he has filed present suit for declaration and perpetual injunction. He pleaded that, prior to filing of this suit name of Chandrakant Ramkishan Shindewas not entered in the 7/12 of suit land. But thereafter, name of Chandrakant Shinde was entered in the 7/12 extract and from Tahsil Office plaintiff got knowledge that said Chandrakant Shinde had purchased the suit land on 23-02-2010 before filing of this suit. The plaintiff has no knowledge of his sale-deed dated 23-02-2010 at the time of filing the present suit. Said Chandrakant Shinde alienated the suit land to Kapil Ashwin Shaha and Goreba Dagdu Chame on dated 5-10-2011. The name of above persons are not entered in 7/12 extract of suit land at the time of filing of present suit. Therefore, the above said persons are necessary parties to the suit. Therefore, plaintiff wanted to amend the plaint and necessary pleading by adding para No.5/A and the above persons as defendants. He lastly prayed for allowing the application.

3. Defendant No.1 filed his say and raised objection.

4. Heard Learned advocates for both sides. Perused application and say of parties.

5. On perusing the 7/12 extract of Survey No.388 it appears that, name of Chandrakant Ramkisan Shinde is entered in 7/12 extract. It also reveals from copy of sale-deed dated 23-02-2010 filed with list dated 16-11-2019 it appears that, said Chandrakant Sinda had executed sale-deed of suit land in favour of Kapil Ashwin Shaha and Goroba Dagdu Chame. Therefore, The plaintiff wanted to insert para No.5/A and the above persons as defendant No.5 to 7 in plaint. The proposed amendment does not change the nature of the suit. The plaintiff filed present suit for declaration and perpetual injunction. If application allowed, no irreparable loss will caused to the defendants. On the other hand, if application is rejected there definitely irreparable loss will caused to the plaintiff. Therefore, in my view, application needs to be allowed. Hence, I pass the following order.

ORDER

1. The application is allowed.
2. Permission is granted to plaintiff to amend the pleading accordingly.
3. Plaintiff is hereby directed to carry out the amendment within 14 days.
4. No order as to costs.

Date : 16/11/2019

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

