

ORDER BELOW EXH. 48
(Passed on 29/08/ 2018)

The present application is moved by the plaintiffs under Order 1 Rule 10(2) of the Civil Procedure Code for addition of a party to the suit.

2. According to them, they filed this suit is for declaration of ownership and perpetual injunction against defendant no. 1 to 8. During pendency of suit defendant no. 1 Narayan alienate the the suit property to his ralative Kondiba Daulatrao Sawant, Trimbak Hanmantrao Sawant and Saroja Dagdu Sawant R/o Telgaon Tq. Chakur Dist Latur by way of partition deed before sub Registrar Chakur on dated 07.04.2015 vide day book no 471/2015 and RCS no. 66/2015 at CJJD Chakur Saroja and others v/s Kondiba and Others on dated 08.11.2016 mutation entry no. 468 has been passed by above person on dated 29.04.2017. The said transaction as pertition deed and decree in RCS no. 66/2015 is illegal and void ab initio.

3. Thus defendant no. 1 willfully and intentionally create multiple transaction of only to grab the suit property of plaintiff. So it is necessary to add the above transferrer as a party to the suit. So plaintiffs prayed to add them as a party to the suit.

4. On the other hand learned advocate for defendants contended that the application is not tenable. The alleged cause of action against the proposed defendants is barred by law and limitation. No any documentary evidence regarding partition deed and filing suit RCS no.66/2015 and decree in it is placed on record.

5. Perusal of record shows that the property in this suit is immovable property and the transfer is made during pendency of the suit. Considering the nature of suit and claim of plaintiff, the proposed addition will not change the nature of suit and no prejudice would be caused to defendant. But heavy loss and great injustice will caused to plaintiffs. Hence, in my opinion the proposed defendants are necessary party for deciding the real controversy between the parties. Hence, following order.

ORDER

1. Application is allowed.
2. The plaintiff is directed to add proposed defendants as defendant no. 9 to 11 in the plaint.
3. Cost in cause.

(Y.D. Koinkar)
Civil Judge(Jr.Dn.),
Chakur

Date : 29.08.2018.