

CNR No. : MHND260002342018	<u>ORDER BELOW EXH.69</u> <u>Maroti Vs. Deepak</u> <u>IN REGULAR CIVIL SUIT NO.33/2018</u>
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01. The counter claimant has filed the application under Order 6 Rule 17 of Code of Civil Procedure.

02. Perused the application and say thereon. Heard learned advocate for both parties. According to applicants since their application for temporary injunction was granted. Plaintiff started alienating the suit property . On 08-05-2019 plaintiff no. 1 had sold property in gut no. 223 adm. 53R in favour of Damodhar Prakash Wankhede through registered sale deed bearing registration no. 521/2019. Plaintiff had sold the suit property during pendency of the suit. Therefore, their pleading needs to be amended by adding claim clause A- Declaration that the sale-deed bearing no. 521/2019 dated 08-05-2019 in respect of land survey no. 223 of village Mendhla (Kh) Tal Ardhapur Dist; Nanded to the extent of 53 R is null and void and not binding upon applicants / counter claimant.

03. Plaintiff have filed say at Exh. 70 and resisted the application. It is submitted by plaintiff that they were in need of money to meet the expenses of marriage of their daughter and medical treatment of plaintiff no. 1. Therefore, they have raised funds by alienating land gut no. 223 to the extent of 53 R to one Damodhar. The present application has moved only to create pressure on plaintiff and purchaser of property. Applicants have no locus-standi to challenge the same sale-deed. Therefore, they prayed to reject the application.

04. Gone through the record. It appears that the suit is for declaration that plaintiffs have 1/7th share in suit property alongwith

partition and separate possession. The gut no. 223 is subject matter of the suit. Since plaintiff have admitted that they have sold the portion to the extent of 53 R out of Gut no. 223. The presence of purchaser of the property is necessary for proper adjudication of the matter. Furthermore, the suit is for partition. Therefore, the alienation of any property will affect share of both parties. The transaction of sale-deed bearing no. 521/2019 dated 08-05-2019 has been taken during pendency of this suit. Therefore the application needs to be allowed to amend the counter claim. The sale transaction is subsequent event took place during pendency of the suit therefore it would not be just and proper to impose costs on present applicant/ counter claimant. Therefore no order as to costs. Hence the application is allowed. The applicants are directed to carry out necessary amendment within prescribed period of law.

Date: 06/02/ 2020.

(S.H.Telgaonkar)
Civil Judge Jr. Dn.
Ardhapur

CERTIFICATE

I affirm that the contents of this [P.D.F.](#) file order are same, word to word, as per the original order.

Name of the Stenographer	:	Anand P Deshmukh
Court of	:	Civil Judge, Junior Division, Ardhapur, Dist. Nanded.
Date of pronouncement of Judgment	:	06-02-2020
Judgment signed by the Presiding Officer	:	06-02-2020
Judgment uploaded on	:	06-02-2020