

MHNG140000732018

Regular Civil Suit No.11/2018
Subhash & others/Vijay & others**ORDER BELOW EXH.18**(Passed on 12th day of February, 2021)

The plaintiff have filed this application under Order VI Rule 17, r/w section 151 of C.P.C. to amend their plaint. The plaintiffs have contended that they have filed this suit for declaration, partition and separate possession of their share in the suit properties. When the written statement of defendant nos.1 and 2 has come on record, the plaintiffs came to know that during the pendency of suit, the defendant nos.1 and 2 have gifted the suit properties in favour of their sons by way of gift deed. Therefore they wants to amend their plaint by incorporating the pleadings and prayer in that regard.

2. The defendants filed their reply and thereby prayed for rejection of application. They have contended that despite knowledge that the gift deeds were executed prior to filing of the suit, the plaintiffs failed to plead while filing the suit. Hence, now they cannot be permitted to amend their plaint. They have further contended that the gift deeds in respect of which the plaintiffs wants to incorporate their plaint, are not placed on record.

3. Heard both the sides. Perused record.

4. The plaintiff has filed this suit mainly for partition and separate possession of their share in the suit properties. It is the contention of

plaintiffs that they learnt about the alleged gift deeds for the first time when the defendant nos.1 and 2 have filed their written statement on record. Bare perusal of the written statement of defendant nos.1 and 2 also goes to show that they have respectively executed the gift deeds in respect of suit properties in favour of their sons. Thus in my opinion when serious question as regards shares of plaintiffs in the suit properties is to be determined by way of this suit, the proposed amendment as regards alleged gift deeds is necessary to come on record to resolve the real question in controversy and to have fair justice. The plaintiff needs to be given chance to incorporate and elaborate their pleadings regarding the alleged gift deeds. If the proposed amendment is allowed, the nature of the suit is not going to be changed. Apart from this, no prejudice would cause to the defendants, as they shall have every opportunity to meet with the case. Moreover, if the application is allowed, it would curtail the multiplicity of litigations. Thus in my opinion, the instant application deserves to be allowed. The sum and substance of my aforesaid findings leads me to pass the following order -

ORDER

1. The application filed by the plaintiffs at Exh.18 for amendment of their plaint is hereby allowed.
2. The plaintiffs shall carry proposed amendment within stipulated time and shall file the amended copy of their plaint.
3. No order as to costs.

Parseoni.
Date:-12.02.2021.

Sd/-
(N.R.Bhalgat)
Civil Judge, Jr.Dn., Parseoni,
District-Nagpur

Argument heard on	12.02.2021
Order passed on	12.02.2021
Transcription ready on	12.02.2021
Order checked and singed on	12.02.2021

CERTIFICATE

I affirm that the contents of this P.D.F. file of order are word to word, as per original order.

Name of Stenographer-Abhijit Yeshwant Kulkarni