

Regular Civil Suit No.38/2016
(CNR No.MHNG14-000288-2016)
Komal/Waman and others

ORDER BELOW EXH.59

(Passed on 13th day of August, 2019)

The plaintiff has filed this application under Order VI Rule 17 of C.P.C. to amend her plaint.

2. According to plaintiff, she filed the instant suit for partition and separate possession. However, during the pendency of this suit, the defendant no.1 executed registered gift deed dated 16.09.2017 in respect of suit property in favour of defendant no.7. Hence, by way of proposed amendment, she intends to amend her plaint by incorporating necessary pleadings and prayer to that effect.

3. The defendant no.1 filed his say at Exh.61 and thereby denied all the adverse contentions. According to him, the instant application is filed just to harass him. In order to safeguard the property, he has executed the aforesaid gift deed. Apart from it, the execution of aforesaid gift deed was well within the knowledge of plaintiff, but she filed this application at belated stage. Eventually, he prayed to reject the application with costs.

4. The defendant nos.2 to 7 did not file their say, therefore the application proceeded without their say.

5. Heard both the sides. Perused record.

6. It has been alleged by the plaintiff that during the pendency of this suit the defendant no.1 executed gift deed of suit property in favour of defendant no.7 and thus by way of this amendment application she wants

to incorporate her plaint to that effect. Thus in my opinion, the proposed amendment which the plaintiff seek to incorporate in her plaint are in respect of the developments that took place after filing of the suit. In short, it can be gathered that the plaintiff is neither not going to create any new defence the nature of the suit is not going to be changed, if the instant application is allowed. Apart from it, the plaintiff has mainly filed this suit against defendants seeking partition and separate possession of their share. It means a serious question as regards partition of the suit property involved in this suit, which is required to be tried and decided. Hence, in order to avoid multiplicity of litigations, the plaintiff needs to be given chance to incorporate and elaborate her pleadings regarding the alleged gift deed. Apart from this, no prejudice would cause to the defendants, as the defendants shall have every opportunity to meet with the case. 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 plaintiff at Exh.59 for amendment of her plaint is hereby allowed.
2. The plaintiff shall carry proposed amendment within stipulated time and shall file the amended copy of her plaint.
3. No order as to costs.

Parseoni.
Date:-13.08.2019.

(N.R.Bhalgat)
Civil Judge, Junior Division, Parseoni,
Tahsil-Parseoni, District-Nagpur.

Argument heard on	13.08.2019
Order passed on	13.08.2019
Transcription ready on	13.08.2019
Order checked and singed on	13.08.2019

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