

MHNG170006682024



Reg.Civil Suit. No.40/2024
Tarabai Dayaram Meshram and others
V/s
Shriram Fattu Bankar and others
Order Below Exh.12
(Passed on 20th February, 2025)

This is an application filed by the plaintiffs under Order-6, Rule-17 of the Code of Civil Procedure, 1908 (the C.P.C.) for amendment in his plaint.

2. Plaintiffs submitted that, the present suit is filed for partition, separate possession and permanent injunction against the defendants. The defendant no.1 to 6 were appeared and filed their written statement on record. The defendant no.7 is not appeared. The defendant no.7 Anushka is not resided with the defendants then plaintiffs enquired about defendant no.7 from defendant no.6 then she came to know that the real name of defendant no.6 is Tejaswi and not Anushka and also she came to know that she was 11 years old. Therefore plaintiffs wants to change actual name of defendant no.7 in the plaint and also in the para no.1 of family tree of plaintiffs and defendants. Therefore, he prayed for allowed the application.

3. Defendant no.1 to 6 filed their reply and objected the application on the ground that defendant no.7 Anushka Pravin Bankar was died though plaintiffs did not delete her name from the array of the suit instead of that plaintiffs wants to change the name of defendant no.7 as a Tejaswi so, this application is not maintainable. Anushka Pravin Bankar and Tejaswi are two different persons, therefore, the application filed by the plaintiffs is illegal, hence, he prayed for reject the application.

4. Perusal of the record and heard both the side, it appears that the present suit is filed by the plaintiffs for partition, separate possession and permanent injunction against the defendant. On perusal of plaint it appears that the name of defendant no.7 is mentioned as a Anushka Pravin Bankar who is 8 years old and defendant no.6 is her mother. In this regard, on perusal of family tree of plaintiffs and defendants mentioned in the plaint it appears that deceased Pravin Bankar having three legal heirs, his wife defendant no.6, his daughter Anushka and plaintiff mentioned that his daughter Tejaswi was died unmarried. According to the plaintiffs they wants to change the name of Tejaswi instead of Anushka. It is admitted by the defendant no. 1 to 6 that one daughter of Pravin Bankar i.e. Anushka was died. In the plaint it was also mentioned that one daughter of Pravin Bankar was died. Therefore, it clearly appears that the name of Anushka was inadvertently mentioned by the plaintiffs absence of proper information of the defendant no.7. Therefore, in the partition suit the presence of all the parties are necessary and it is also necessary that their proper name was mentioned in the plaint, therefore, the application of plaintiffs is deserved to be allowed. Hence, following order -

ORDER

1. Application (Exh-12) is allowed.
2. Plaintiffs are directed to carry out the amendment within 14 days from the order and file to copy of amended plaint on record.

Bhiwapur
Date:- 20.02.2025

Sd/-
(S. J. Lad)
Civil Judge Junior Division,
Bhiwapur