

MHNG180003812022

**Regular Civil Suit No. 12/2022****Gunwant Vs. Sant Narhari****ORDER BELOW EXH. 36****(Passed on 30<sup>th</sup> July, 2022)**

The plaintiff has preferred this application seeking amendment in application seeking interim relief. It is stated that, wife of defendant No. 4 is owner of plot No. 20 adjacent to the suit plot. It is necessary to add her. As result of his addition, it is necessary to amend Exh. No. 5 in that respect. It is prayed by the plaintiff that, the application may be allowed.

2. Defendant No. 4 resisted the application by filing say at Exh. No. 33. It is stated by defendant No. 4 that, allegations in the plaint are false. Proper documents are not produced at the time of filing the suit. Proposed defendant is residing separately from defendant No. 4 due to their family disputes. Defendant No. 4 has no concern with the suit. He prayed that the application may be rejected.

3. It appears from the record that, defendant No. 3 has been deleted. Public notice has been published in newspaper as substituted service of summons to defendant No. 1. It appears from the record that, defendant No. 2 did not appeared despite of service of summons on him. No appearance on behalf of defendant No. 1. Considering nature of dispute and reliefs sought I proceed to here submissions of the plaintiff and defendant No. 4 without waiting for say of defendant Nos. 1 and 2.

4. Heard Ld. Advocate Sau. J.I. Pawar for the plaintiff and Ld. Advocate Shri N.D. Anjanakar for defendant No. 4. They have submitted in terms of contents of application and say.

5. The suit is at primary stage. Hearing on application seeking interim relief is yet to commence. It is claimed by the plaintiff that, proposed defendant is owner of the plot adjacent to the suit plot. Therefore, proposed defendant appears necessary party to the suit without reach the court can not pass a executable decree. I have also reach to conclusion that, application seeking amendment in the plaint shall be allowed. Section 141 of Civil Procedure Code, 1908 empowers the court to do so. I am of the opinion that, the application seeking addition of the party and subsequent amendments in following paragraphs of the Exh. No.5 in this suit shall be allowed. It is pertinent to note that, defendant No. 4 has been appeared and filed his written statement. However, considering nature of relationship between defendant No. 4 and proposed defendant, I do not considered that, costs shall follow the event for this application. Having regard to the facts, I pass order.

### **ORDER**

1. The application is allowed.
2. The plaintiff shall carry out amendment and file seprate amended Exh. 5 within 7 days.

**Date 30/07/2022**

**(Y. S. Kawade)  
Jt. Civil Judge Junior Division,  
Kalmeshwar, Nagpur.**

**ENDORSEMENT**

Application Argued on	:	30.07.2022
Order dictated on	:	30.07.2022
Transcription Ready on	:	30.07.2022
Order checked and signed off	:	30.07.2022

**CERTIFICATE**

I affirm that the contents of the this PDF file order are same word to word, as per the original Order.

Name of the Stenographer :- R. S. Daware (Gr. III)