

ORDER BELOW EXH. 15

Gulab and others V/s Rakhmabai and others

Read the application and say filed by defendants. Perused record. Heard both the Counsels.

2] This is a suit for declaration and injunction. Wherein application for amendment in the plaint under Order VI Rule 17 of the Code of Civil Procedure is filed.

3] It is submitted on behalf of applicant that, the defendants, on service of summons didn't appeared before the Court. Meanwhile, defendant No. 6 executed sale deed in respect of suit property in favour of one Manik Piraji Chavan. Therefore, said Manik Piraji Chavan is necessary party to the suit. In his absence, there would not be a proper adjudication. Hence, the present application is filed.

4] Defendants resisted the application by filing say. It is submitted that, the application is without cause of action and incomplete on the point of Court Fees Stamp and prayed to reject the application.

5] Perusal of the record shows that, defendant No. 6 is served on 31/01/2018. The alleged Sale Deed is executed on 15/10/2018 i.e. after service of summons. The property which is sold by defendant No. 6 to Manik Piraji Chavan is a suit property. When, the property is in the name of defendant No. 7 in my view, he is necessary party to the suit. If the

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application is allowed, no harm will cause to the present defendants. At the same time, if the application is rejected, Manik Piraji Chavan would create the third party interest in the suit property. Once, the third party interest is created, it would be a cause for fresh litigation and it is not permissible in the eyes of Law. Hence, in result following order is passed.

ORDER

- 1] Application Exh. 15 is allowed.
- 2] Plaintiff to carry out necessary amendment on or before next date.

Sd/-xxx
(Vijay C. Gawai)
Civil Judge Junior Division,
Pimpalgaon (B.), Tal. Niphad,
Dist. Nashik.

Date : 19/12/2018