

ORDER BELOW EXH.39

This is an application filed by plaintiff under Order-6 Rule-17 to amend the plaint.

2. Perused application and say of defendants. Heard Ld. respective advocates for respective parties.

3. According to plaintiff, during the pendency of the suit, the defendant no.2 is her husband and supporting party to the plaintiff who died on 24/10/2016. Except plaintiff, no one has inherited the defendant no.2 and therefore, his name is to be deleted from the array of defendants. It is further contention of plaintiff that during the lifetime of defendant no.2, he has executed registered Will Deed dtd.15/09/2015 in vide registration no.3311/2015 regarding that after his death the suit property is to be bequeathed in her favour and therefore, the contentions regarding his Will Deed must be pleaded in the plaint. As such, the plaintiff has filed this application for insertion of para no.3 sought in the application in the plaint by way of amendment and accordingly, prays to allow the application.

4. According to defendants, there is collusion between plaintiff and her husband defendant no.2 and therefore, they have conspired to grab the suit property, got executed Will Deed in their favour with deceased Godyabai by playing fraud. Being defendant no.2 is one of the legal heir of Godyabai, the plaintiff got executed Will Deed of her husband defendant no.2 in her favour to obtain the suit property of deceased Godyabai. The amendment sought by

the plaintiff is changed the entire nature of the suit and therefore, liable to be dismissed.

5. It is undisputed fact that the defendant no.2 is the husband of plaintiff and he died on 24/10/2018 without inheriting legal heir except plaintiff and hence, plaintiff wanted to delete the name of defendant no.2. It is further revealed from the record that the suit is in respect of Will Deed executed by Godyabai which will be decided after full fledged evidence on merit. The plaintiff also wanted to amend the plaint in respect of Will Deed of defendant no.2, which is claimed to be bogus by defendants, can be decided on merit and hence, merely insertion of contention in respect of Will Deed of defendant no.2 does not change the nature of suit. Considering the nature of dispute, relations between deceased defendant no.2, Will Deed of deceased defendant no.2, and legal necessity of amendment sought by the plaintiff, the application deserves to be allowed and hence, I pass following order :

ORDER

1. The application is allowed.
2. The plaintiff is permitted to amend the plaint as sought for and to file the amended plaint within the prescribed time.
3. No order as to cost.

Date :-02/04/2019

(Smt.S.P.Kulkarni)
Civil Judge, J.D.,Dindori.

CERTIFICATE

I affirm that the contents of this P.D.F file are same word for word as per original.

Name of Steno	:	Pankaj R. Shende
Court Name	:	Smt. Sharawari P.Kulkarni Jt. Civil Judge, Jr. Division, and Judicial Magistrate, F. C. Dindori, Dist. Nashik
Date of Order	:	02/04/2019
Signed by Presiding Officer on	:	03/04/2019
Order uploaded on	:	08/04/2019