

Order below Exh.106

1. Present application is filed by the defendant No.7 as per Order-6 Rule-7 of the C.P. Code. It is alleged by the defendant No.7 that, he has filed written statement along with counter-claim vide Exh.67 but, many properties were sold by the parties and there in defendant No.7 is having share. Therefore, it is necessary that, the property which was sold by the parties needs to be impleaded in the suit. Hence, filed present application for amendment in pleading. By the alleged amendment nature of the counter-claim as well as written statement will not be change. This amendment is not contrary to previous pleading of defendant No.7. Hence, prayed for allowing defendant No.7 to amend his written-statement.

2. Present application was opposed by the defendant on the on the ground that, present defendant No.7 filed a counter-claim not against plaintiff but, against defendant which is not permissible. Proposed amendment is vague in nature. Only plot number and its area was mentioned in application. The valuation of the proposed is more than Rs. Twenty Five lacs, no stamp was fixed by defendant No.7. Purchaser also not impleaded in suit. Therefore, if, proposed amendment is allowed, it will be outstayed, the jurisdiction of this Court as well as, amendment is time barred regarding the alienation. Hence, prayed for rejection of application.

3. Perused the application and say. Heard both sides. Plaintiff rightly submitted that, he has not filed application to amend the

pleading. After going through the application, it reveals that, description of the property in the proposed amendment is vague. The valuation of the particular plot is not mentioned. Its four boundaries, exact area nowhere clear. Only numbers are mentioned in the application which is not sufficient. It is also nowhere clear that, who has sold the alleged plot when actually sale-deeds executed. It is also nowhere mentioned that, who has purchased the said plots and importantly, these purchasers are not made party in the suit. Neither they asked nor impleaded in the suit. Therefore, in my opinion, though it is basic principle that, Court should be liberal while allowing amendment in the pleading but, present application is vague one. If, it is allowed, then, parties will suffer irreparable loss. Considering this, I pass following order,

- ORDER -

Application is rejected.

Yeola, Dist. Nashik,
Dated : 17/07/2013

sd/-
Civil Judge, J.D., Yeola.