

R.C.S. No.126/2016  
chandrakant Dhage & Anr Vs.  
Ulhas Gaikwad & Ors

**Order below Exh.31 in R.C.S. No.126/2016.**

( Passed on 22..02.2024. )

**1.** This is an application filed by plaintiff under Order- VI, Rule-17 of Civil Procedure Code, for carrying out amendment in pleading particularly mentioned in the application.

**2.** It is contended in the application that the present suit is filed by the plaintiff for removal of encroachment and possession. It further contended that defendant Nos 6,12, and 14 have appeared and filed their Written Statements. It further contended that the during pendency of suit defendant No 5 has sold suit to property to Balu Sakhahari Kadam. And Sampat Sakhahari Kadam on 28.09.2017. The incident took place after instituting suit. Hence it is necessary to add them party in the suit. It would not change the nature of the suit. Hence, it is prayed to allow the application.

**3.** Defendants Nos.1 to 4 have strongly resisted the application by filing their say on overleaf the application. It is the contention of the defendant that application is not true and correct. It will change the nature of the suit. Finally, prayed for the rejection of the application. Defendants Nos 6 to 12 and 14 have strongly resisted the application by filing their say on overleaf the application. It is the contention of the defendant that application is not true and correct. Finally, prayed for the rejection of the application.

**4.** Considering the application and say filed, the following points arise for my determination, to which I have recorded my findings thereon as under-

<b>Sr. Nos.</b>	<b>Points.</b>	<b>Finding</b>
1.	Whether proposed amendment deserves to be allowed?	<b>In the affirmative.</b>
2.	What order?	<b>Application is allowed as per the final order.</b>

**Reasons -**

5. Heard both sides and perused the pleadings , application say and . It appears that the plaintiffs intended to add the party in the suit. By way of this the amendment. This application is supported by an affidavit. The defendants have filed villege form no 6 ,i.e. Mutation registered No.2331, (Exh.42). After perusing it appears that the on 28.09.20017 defendant No 5 has sold suit property Gut No 606 to Balu Sakhahari Kadam. And Sampat Sakhahari Kadam. It is certified copy. The transaction took place after filling suit. Hence to avoid multiplicity of suit it is necessary to add them in the suit. Moreover, the proposed amendment is formal in nature, hence, it will not change the nature of the suit. The suit is at appearance stage hence no bar under Order VI, rule 17 of the Civil Procedure Code. Furthermore, it is well-settled law that the court should be liberal while deciding amendment applications. The proposed amendment is necessary for determining the real question in controversy between the parties. If the amendment is allowed, defendants may get the opportunity to file their additional Written Statement in respect of the amended portion of the plaint. Hence, no prejudice will be caused to them. As far as delay is concerned it can be compensated by way of imposing reasonable costs. With these observations, I hold that the

application deserves to be allowed. Hence, I pass the following order-

**ORDER**

1. The application is allowed subject to costs of Rs.500/- be paid to defendants.
2. The plaintiffs are permitted to carry out the amendment as mentioned in the application within 14 days from the date of this order and supply a copy of it to other side.

Sd/-

**(S. B. Rathod)**

**2<sup>nd</sup> Jt. Civil Judge, Jr. Division,  
Yeola, Dist. Nashik.**

**Place: Yeola  
Date : 22/02/2024.**