

**ORDER BELOW EXH. 58 IN R.C.S. NO. 265/2008**

( Radhabai Kisan Gite V/s. Vishnu Sakharam Lahamge and etc.)

1. Plaintiff has moved the present application for amendment of pleadings and impleadment of parties under Order VI Rule 17 and Order I Rule 10 of Code of Civil Procedure.

2. She has contended that the suit is for perpetual injunction based on the agreement executed in the year 1988. She has further contended that the suit property survey no. 67/1 seems to be converted as a non-agricultural land. Further, for identification of the suit property and execution of a decree the defendant no. 2 is already impleaded as a party defendant and at that time the son and daughter of defendant no. 2 were minor. Plaintiff further contended that the son and daughter of defendant no. 2 has attained the majority and hence it is necessary to implead them as a party defendant no. 3 and 4 and to further carry out the necessary amendment in their respect. Hence, she prayed to allow the application.

3. The defendants have filed say and denied the contentions of application. Per contra contended that the application is not legal. Further, no documentary proof regarding age of proposed defendant no. 3 and 4 is been filed on record. Further, the proposed defendant mentioned in the application have no concern with the suit property. Hence, they prayed for rejection of application.

4. Perused the record it reveals that, the suit is for perpetual injunction and plaintiff has contended that, she is in possession of suit property on the basis of agreement. The present application is filed to

implead defendant no. 3 and 4. Thereafter, the plaintiff has filed an another application below Exh. 60 and contended that the proposed defendant no. 3 is Nikita Manoj Lahamge and inadvertently her first name is typed as Ankita. Considering the said application as it was typographical mistake the plaintiff was permitted to rectify the name of Ankita as Nikita. After perusing the 7/12 extracts filed on record of survey no. 67/2 plot no. 30 it is evident that the name of Nikita Manoj Lahamge and Aniket Manoj Lahamge is entered in record of rights. Further, their names seems to be in individual capacity and their mother Suvarna is not shown as a guardian. So the ground raised by the defendant regarding absence of age proof have no force. So considering the nature of dispute and principle of natural justice I hold that, the proposed amendment is necessary for complete adjudication of the suit on its own merit. If the amendment is allowed there will no any prejudice to the defendants. Considering all above things I hold that application deserves to be allowed. Hence, following order.

**ORDER**

1. Application is allowed.
2. Plaintiff is permitted to make necessary amendment as prayed in the application and file the amended copies within stipulated period without fail.
3. Parties to expedite the matter.

**Sinnar**

**Date:- 01/09/2018.**

**(V.S. Wagh)**

**Joint Civil Judge, J.D., Sinnar.**