

Order below Exh.26 in R.C.S. No.166/2020
(Annasaheb Vs. Shivaji and Ors.)

Read the applications and say filed on them. Heard learned counsel for both sides. The suit is for preemption declaration and permanent injunction. It is seen that, during the pendency of the suit, defendant No.1 alienated 40 R land of the suit land to defendant No.2 vide a sale deed dated 28.01.2021 without the permission of the court and possession. The said alienation hit by the principle of lis pendence as per Section 52 of the Transfer of Property Act. Therefore, the plaintiff sought to challenge the said alienation being illegal and not binding upon him with necessary pleas. The proposed amendment relates to the suit land, and it does not change the nature of the suit. It has a bearing on the rights of the plaintiffs. Hence, the proposed amendment is essential for just decision of the suit. The defence would be entitled to file its written statement to the pleas to be incorporated in the plaint by way of amendment and would not suffer any prejudice. Hence, the proposed amendment is liable to be allowed, and it be carried out in the plaint on or before next date with submission of necessary copies of the amended plaint.

Sd/-xxx

Date : 29.09.2023.

(M. M. Gadiya)
Civil Judge, S.D., Sinnar.