

Special Civil Suit No.13/2011

(Jahangir Vs Khajamiya & others)

CNR No.MHOS140000922011

ORDER BELOW AT APPLICATION EXH-165

1. The present application is filed by the plaintiffs under Order I Rule 10 and Order VI Rule 17 of the Code of Civil Procedure seeking impleadment of subsequent purchasers as defendant Nos.3 to 6 and consequential amendment of the plaint.

2. It is the case of the plaintiffs that the present suit is filed for cancellation of Sale Deed No.1599 of 2010 executed by the deceased plaintiff in favour of defendant Nos.1 and 2 in respect of land Survey No.20/A, admeasuring 2 Hectares 21 R, situated at Paranda, and for perpetual injunction. The plaintiffs have contended that during the pendency of the suit, defendant Nos.1 and 2 executed Sale Deed No.951 of 2023 in favour of (1) Alidad Mainuddin Tutake, (2) Ismail Mainuddin Tutake, (3) Niyamat Mainuddin Tutake, (4) Mdm. Iliyas Gulammohiyoddin Tutake and (5) Arbaj Ayyub Titake in respect of the suit property. According to the plaintiffs, the said purchasers are claiming rights over the suit property on the strength of the said sale deed and are obstructing the peaceful possession of the plaintiffs. Hence, they are necessary and proper parties to the suit and consequential amendment of the plaint is required to bring the subsequent event on record.

3. Defendant Nos.1 and 2 have filed their reply and opposed the application. It is contended that the application is not maintainable and deserves to be rejected.

4. I have heard the learned advocates for both sides and perused

the record.

5. The record reveals that the present suit is for cancellation of Sale Deed No.1599 of 2010 and for perpetual injunction in respect of the suit property. It is not in dispute that during the pendency of the suit, defendant Nos.1 and 2 executed Sale Deed No.951 of 2023 in favour of the proposed defendants. The alleged transfer has taken place after institution of the suit. The proposed parties are claiming interest in the very same suit property through defendant Nos.1 and 2. The rights of the subsequent purchasers are directly connected with the subject matter of the suit. Any decree passed in their absence is likely to result in multiplicity of proceedings and may not effectively adjudicate the entire controversy. Therefore, their presence is necessary for complete and effective adjudication of the dispute. The proposed amendment is based upon a subsequent event which occurred during the pendency of the suit. The amendment is necessary for determining the real questions in controversy between the parties. It does not introduce a new or inconsistent cause of action and no prejudice, which cannot be compensated by costs, would be caused to the defendants. Hence, the application deserves to be allowed. I pass following order,

ORDER

1. The application is hereby allowed.
2. The plaintiffs are permitted to implead (1) Alidad Mainuddin Tutake, (2) Ismail Mainuddin Tutake, (3) Niyamat Mainuddin Tutake and (4) Mdm. Iliyas Gulammohiyoddin Tutake (5) Arbaj Ayyub Tatake as Defendant Nos.3 to 7.
3. The plaintiffs are permitted to carry out the proposed amendment in the plaint within 15 days from the date of this order.
4. After carrying out the amendment, the plaintiffs shall supply amended copies of the plaint to all defendants and take necessary

steps for issuance of summons to the newly added defendants in accordance with law.

5. The newly added defendants shall be at liberty to file their written statement within the period prescribed by law.

No order as to costs.

Dictated and pronounced in open Court.

Date: 02/07/2026.

(A. A. Shaikh)

Civil Judge Senior Division Paranda.