

R.C.S.No. 398/2012
Rangnath Kashid and Ors. Vs. Baban Kashid and Ors.
CNR-MHPU09-001250-2012

ORDER PASSED BELOW APPLICATION (EXH. NO. 161)

Plaintiffs have filed an application under Order 6 Rule 17 of the Code of Civil Procedure.

2. It is contended by plaintiffs that, they have filed the pursis (Exh. 152) for deleting the suit property No. 1A-3 Survey No. 89/1 admeasuring 1H. 78R. out of which area admeasuring 0H. 76R. remains only. The remaining portion out of 1H. 78R. sold by way of 03 registered sale deed. Therefore, there is a change in the schedule of remaining portion of above mentioned land. The proposed amendment by way of 3-1, 3-2 and 3-3 needs to be brought.

3. Per contra, defendants have filed their say (Exh. 166) that the present application is not maintainable.

4. Perused the application and say filed. Admittedly, plaintiffs have filed the pursis (Exh. 152) in respect of the proposed amendment. But the present pursis only seen and filed. It was not supporting the affidavit.

5. Thereafter. the present application came to be filed along with the supporting affidavit. Therefore, the contention raised by defendants that the present application is not maintain does not survived.

6. On the perusal of contents of the application and there is no specific denial that the above mentioned portion of Survey No. 89/1 has been sold by way of 03 registered sale deed. On the contrary defendant No. 14 to 17 have filed their say (Exh. 167) that before filing the suit the admeasuring area 50 R. of Survey No. 89/1 has been sold. Therefore, no portion of 0H. 76R. remains of Survey No. 89/1. Hence, prayed for rejection of it.

7. The contention of plaintiffs regarding the execution of sale deed supporting with registered sale deed No. 18035/2022 dated 12/12/2022 in respect of Survey No. 89/1 admeasuring 0H. 71R. Similarly, another registered sale deed No. 10358/2019 dated 02/07/2019 of Survey No. 89/1 admeasuring 21.6 R. Similarly, another registered sale deed No. 1502/2014 dated 20/02/2014 of Survey No. 89/1 admeasuring 10 R.

8. The contention of the plaintiffs for filing the proposed amendment on the basis of above mentioned 03 registered sale deeds. On basis of these documents, suit property No. 1A-3 reduce from 1H. 78R. to 76R. Defendants have not denied the execution of these documents. On the contrary, their contention that the applications is not as per the provisions of law. Therefore, considering to nature of the dispute the proposed amendment is necessary to decide real controversy between

parties. No prejudice caused to defendants if the proposed amendment is allowed. Hence, I proceed to pass the following order :-

ORDER

1. Application is allowed.
2. Plaintiffs are directed to carry out necessary amendment in their plaint regarding schedule of the suit property No. 1A-3 admeasuring 76R. instant of 1H. 78R.
3. Plaintiffs are directed to file the amended copy till next date.

Dated : 17.06.2025.
Place : Pimpri, Pune.

(N. R. Gajbhiye)
Civil Judge Junior Division,
Pimpri, Pune.

CERTIFICATE

I affirm that the contents of this P.D.F. file Order/ Judgment are the same, word to word, as per the original Order.

Name of the Stenographer :- Smt.B.S. Jamkhandi(Karnikar)

Name of the Court :- Shri. N. R. Gajbhiye

C.J.J.D. and J.M.F.C. Pune.

Order / Judgment Date :- 17/06/2025

Order / Judgment signed by

the Presiding Officer on :- 17/06/2025

Order uploaded on :- 19/06/2025