

ORDER BELOW Exh.82
(Passed on dated:- 19/11/2018)

1. Heard Learned counsel for defendant No.2 to 5 and perused record. The plaintiffs have not given say to the application and therefore application proceeded without their reply. The defendant No.2 to 5 have filed present application under order 6 rule 17 of C.P.C. to amend their counterclaim by way of proposed amendment. According to them, they came to know from the written statement filed by plaintiffs to their counterclaim that plaintiffs have sold the flats, shops in the said disputed building to the various purchasers and they are in possession of the same. The plaintiffs have formed society by name Devkar Plaza Sahakari Graha Rachana Sanstha Maryadit of those purchasers in the year 2008. Said society is representing all its members everywhere. They are standing in the shoes of plaintiffs and therefore said society through its Chairman/Secretary needs to be added as defendant No.6 in the counterclaim.

2. As stated earlier, the original plaintiffs have not filed their say to this application in spite off sufficient opportunity till today. Moreover it is not disputed that the initially the suit was filed in year 2004. In the said suit i.e. R.C.S. No.1/2004, present defendants No.2 to 5 have filed their counterclaim which is still under adjudication before this court. It is re-registered as present R.C.S. No.228/2010. Further more the main object of order 6 rule 17 of C.P.C. is to determine the real question in controversy between the parties. In the instant suit both parties have right and opportunity to contest the counterclaim on

merit and therefore no prejudice would be caused to the plaintiffs if the defendants are allowed to amend their counterclaim nor new facts are introduced by way of proposed amendment. Therefore in the circumstances of the matter application deserves to be allowed and hence I pass the following order.

ORDER

- 1) Application Exh.82 filed by defendants No.2 to 5 is hereby allowed.
- 2) The defendants are directed to carry out necessary amendment on or before next date.
- 3) After amendment summons be issued to the proposed defendant No.6 on P.F.
- 4) Application is accordingly disposed off.

Dated: 19/11/2018.

(Madhuri R. Khanwe)
Civil Judge Junior Division
P.C.M.C. Court, Akurdi, Pune.

CERTIFICATE

“I affirm that the contents of this P.D.F. file order are same word for word as per original order.

Name of Stenographer	:-	Smt. S. S. Gupte
Court Name	:-	Madhuri R. Khanwe (J.M.F.C.) Civil and Criminal Court (P.C.M.C.), Akurdi, Pune.
Date	:-	19/11/2018
Order signed by presiding officer on	:-	19/11/2018
Order uploaded on	:-	19/11/2018