



ORDER BELOW EXH.119

1. This application is filed by plaintiff for amendment in pleadings as per Order 6 Rule 17 of Civil Procedure Code. I have perused the application, Say. I have heard counsel for respective parties.

2. In this application, the plaintiff is seeking amendment in the plaint on the ground that the defendants no.2 and 3, during pendency of this suit, have sold out portion out of property No.1(A) on 17/11/2015 to the defendants no.6 to 9 by way of registered sale-deed. Therefore, the plaintiff desires to make amendment in the pleadings of the plaint and also desires to claim suitable reliefs in this regard. So also, it is alleged by the plaintiff that defendant no.1 has expired leaving behind him plaintiff and defendants no.2 to 5 as heirs and therefore the plaintiff also wants to amend the pleadings in the plaint. This application is supported by affidavit of plaintiff at Exh.120.

3] The defendant submitted say on this application itself. In the say, it is alleged by the defendant that the proposed amendments are not legal and that the proposed amendments will change the nature of the suit etc.



4] The arguments of the parties are in line of their respective pleadings.

5] This is a suit for partition, declaration and perpetual injunction. Valuable rights of the parties are involved in the suit. The suit must be disposed off on merits. However, the counsel for plaintiffs referred citation in the case of **Rajaram Naik V/s State of Goa, reported in 2016(1) Mh.L.J. 770**. I have perused this citation. In this citation, the Hon'ble High Court pleased to observe that the proposed amendments necessary to decide real controversy between parties to suit and in order to avoid multiplicity of proceedings should be allowed. In the present case also, in view of registered sale-deed and death of defendant no.1, I am of the considered view that proposed amendment is necessary to decide controversy between parties at once. The Hon'ble High Court, in this citation, also observed that merits of amendment cannot be gone into at initial stage and that court can allow amendment at any stage of proceeding subject to embargo placed in proviso to Rule 17, Order 6 of CPC.

6] The counsel for plaintiff also referred another citation in the case of **Kamlesh Jagannath Suryawanshi V/s Kalyan Shishirkumar Dutta, reported in 2013(6) Mh.L.J. 193**. I have also perused this citation. In this citation, the Hon'ble High Court



observed in para no.5 that ordinarily all amendments ought to be allowed, which are essential to determine the real controversy in the suit. It is also observed by the Hon'ble High Court that the precaution for the court must be to see that the proposed amendment should not materially alter/vary/annul the substantial reliefs claimed in the plaint etc. In the present case, if the nature of proposed amendment is seen, then it appears that it will not materially alter the substantial relief, on the contrary, proposed amendment will help the court to decide the suit at once without there being any kind of multiplicity of litigation between the parties. Therefore, in view of aforesaid ratios given by the Hon'ble High Court, with respect, I say that the citations are fully applicable to the case in hand. In the present case, it is also to be noted that if proposed amendment is allowed, then, it will not cause any prejudice to the defendants. The counsel for defendants in their say made general grounds opposing this application, but failed to show in their say how the proposed amendment will change nature of suit or it will cause prejudice to them. Therefore, after considering the pleadings and written arguments and citations referred, in the interest of justice, for fair trial and considering stage of the case, I conclude to allow this application by passing following order.



ORDER

1. Application at Exh.119 is hereby allowed.
2. No costs.

Date : 29/06/2024

(Md. Taher Bilal)
Civil Judge Junior Division, Saswad



CERTIFICATE

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

Name of Steno	:	PS. More, Stenographer (Grade III)
Court Name	:	Shri. Md. Taher Bilal Civil Judge Jr. Division, Saswad.
Date of Order	:	29/06/2024
Judgment signed by presiding officer on	:	29/06/2024
Judgment uploaded on	:	29/06/2024