

ORDER BELOW EXH.108 IN REG. C.S.NO.247/2012

Perused application. Heard learned counsel for the plaintiff. This is application under Order 1 Rule 10 of the Code of Civil Procedure.

2] It is the contention of the plaintiffs that this court vide order Exh.84, deleted some properties

3] It is further contention of the plaintiffs the plaintiff want to waive the prayer clause against the defendant nos.22 to 40 from some suit properties, as well as want to delete the names of defendant nos.22 to 40 from the suit.

4] The defendants filed say and contended that they have no objection to allow the application.

5] Before deciding the application, first of all we have to see the provisions contained in **Order XXIII Rule 1 which reads as under :**

“At any time after the institution of a suit, the plaintiff may as against all or any of the defendants abandon his suit or abandon a part of his claim”

6] Perused the application and say thereon. Heard learned advocate for both sides. The suit is filed for partition, declaration, separate possession and permanent injunction. As the properties mentioned above are small in area, it cannot be partitioned effectively. So also, the plaintiff only wants to waive the claim against defendants no.22 to 40 from the said properties

and also want to delete their names from the plaint. Order 23 Rule 1 permitted the plaintiff to waive his claim against any of the defendants or abandon a part of his claim. Hence, to decide the controversy once for all and considering the reason mentioned in the application, I pass following order.

ORDER

- 1) Application is allowed.
- 2) Names of defendants to 22 to 40 be deleted from the plaint.
- 3) Plaintiff is directed to amend the suit and file amended plaint on record, on or before next date.

sd/-

Pune
Dt.20/07/2024

(Shri M.S. Bharad)
2nd Joint Civil Judge, Junior Division,
Saswad,Pune.