

R.C.S. 325/2016

Dnyaneshwar v/s Mahadeo

CNR NO. MHPU13-001855-2016

ORDER BELOW EXH-24

1) This application is filed by plaintiff for amendment of plaint. Contending that, this suit is filed by plaintiff for specific performance of contract. In spite of agreement to sale in favour of plaintiff is in existence defendants sold 35 R land to Shri. Sopan Baban Mahadik. On 25/08/2017 said Sopan Baban Mahadik came in suit property and ask the plaintiff to go out of suit property and said that, Suit Property is purchased by him from defendant no. 1 to 4. The act of Sopan is the obstruction the possession of plaintiff over suit property. Therefore it is necessary to claiming injunction against Sopan Baban Mahadik and to add him in the suit as defendant. and subsequently it is necessary to amend the suit. Praying that permission be given to plaintiff for amend the suit.

2) Plaintiff wants to add Sopan Baban Mahadik as defendant no. 5, to add para 2(a) after para 2 regarding the claim against Sopan Baban Mahadik, Plaintiff also wants to amend paragraph 3 regarding cause of action. Plaintiff further wants amendment in prayer column paragraph 7.

3) Defendants filed their say to application at exh-31

contending that, the contents of application are false. Defendant no. 1 to 4 's grandfather Sopan had never executed agreement to sale deed in favour of plaintiff. Defendant no. 1 to 4 sold out the suit property to Sopan Mahadik for consideration amount Rs. 10,25,000/-. The possession of suit property was hand over to Sopan on 13/07/2016. By proposed amendment the nature of suit will be changed. Therefore, application may be rejected.

4) Heard Adv. M. D. Jadhav for the plaintiff and Adv. Bharat Borkar for the defendants.

5) The application is supported by affidavit. The plaintiff also filed the certified copy of sale deed. which shows that, defendant No. 1 to 4 executed sale deed on 13/07/2016 to Sopan Mahadik.

6) This suit is filed on 14/11/2016. Adv. Borkar argued that, sale deed is executed before filing of suit. Therefore, plaintiff should have to add the purchaser in the suit at the time of filing of the suit. Adv. M. D. Jadhav replying that, at the time of filing of the suit the name of Sopan Mahadik was not appeared on 7/12 extract of suit property. Plaintiff learnt about sale deed on 25/08/2017 first time. I perused the 7/12 extract of suit property filed by plaintiff along with list exh. 3. The name of Sopan Mahadik not appears on it. Hence, I find substance in the argument of Adv. Jadhav for plaintiff.

7) The suit is pending for argument on exh-5. The hearing of

the suit is still not commenced. For decide the suit on merit it is necessary to hear the parties of sale deed of suit property. Plaintiff stated that, Sopan Mahadik obstructed his possession. Therefore, it is also necessary to add him as defendant. If suit is amended there would be no loss to defendants. Therefore it would be proper to give permission to amendment in the plaint. In the result I pass the following order

ORDER

- 1] The application is allowed subject to costs of Rs. 300/-.
- 2] Plaintiff to carry out amendment in the plaint within 14 days.

Saswad
Date :- 09/02/2018

(V.B.Salunke)
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 : M. D. Shirode, Stenographer
(L.G.)

Court Name : V.B.Salunke
Judicial Magistrate First Class Saswad.

Date of Judgment : 09/02/2018

Judgment signed by presiding officer on : 09/02/2018

Judgment uploaded on : 09/02/2018