

ORDER BELOW EXH-21

1 This is an application filed by the plaintiff for Judgment on admission. As per plaintiff, defendant has filed Written Statement vide Exh-17. The defendant has admitted the relationship, nature of suit properties. Therefore it is prayed that an application be allowed and judgment be given on the basis of admissions given by the defendant.

2 The defendant has filed say at Exh-22 and resisted application strongly. As per defendant, they have not admitted previous partition and also not admitted share of defendant and plaintiff. Hence it is prayed that application is devoids of merits and same is to be rejected with costs.

3 Despite of opportunities the learned counsel holding for plaintiff not argued this application. The learned counsel Shri. Ambodare present before court he orally sought adjournment. The record shows that on earliar date I.e on 02/11/2016 on the same reason case was adjourned. Despite of said opportunity the learned counsel has not argued this application, on the very other hand learned counsel Shri. Bhushan Divekar was and is ready for argument.

4 I have perused the pleadings of the parties. It reveals that defendant has specifically denied shares of plaintiff and defendant in the suit property. Defendant has raised objection in respect of non joinder of necessary parties. In this situation it will not proper and fit case to give judgment on admission. Considering above noted reasons I found that this application is not maintainable and same is to be rejected. Accordingly I pass following order.

ORDER

The application is rejected.

Date :08/11/2016

(Sumit V Joshi)
Jt.Civil Judge J.D. Daund,
Dist. Pune.

ORDER BELOW EXH-23

1 This is an application filed by the plaintiff for amendment in plaint under Order VI rule 17 of Code of Civil Procedure. As per plaintiff present suit is instituted for partition and separate possession. During the pendency of this suit, plaintiff found the copy of partition in RTS case. Plaintiff came to know the boundaries which are mentioned in the plaint are erroneous. Hence for the interest of justice and to decide case on merit plaintiff seeking relief of amendment. Lastly it is prayed that an application be allowed.

2 The defendant has filed say to this application at Exh-24 and resisted it strongly. As per defendant, he has denied the partition and objection was raised in respect of boundaries of suit property therefore it is prayed that application be rejected with costs.

3 Heard the learned counsel Shri. Ambodare for plaintiff and Shri. Divekar for Defendant. Perused records. Following points arises for my determination to which I record my findings with reasons as follows.

<u>Sr. No.</u>	<u>Points</u>	<u>Findings</u>
1	Are plaintiffs entitled for amendment sought ?	Affirmative
2	What order ?	As per final order

// REASONS //

AS TO POINTS NO. 1 AND 2 :

4 The learned counsel holding for plaintiff Shri. Ambodare submitted that today he has produced on record the certified copy of partition in revenue office. He further submitted that at the time of institution of suit plaintiffs were not known the exact boundaries of suit properties but today they have got correct boundaries. If this court permit to amend the plaint no harm would be caused to defendant. Hence it is prayed that an application be allowed.

5 The learned Counsel Shri. Divekar holding for defendant submitted that, suit is pending for hearing on Exh-5 application. The defendant has specifically denied the boundaries of suit properties. Plaintiff is trying to fill-up lacuna. Hence it is prayed that an application be rejected with costs.

6 Heard both the side at length. Perused the record. Present suit is instituted for partition and seperate possession of suit properties. Defendant has filed his Written Statement on record. Today suit is pending for hearing on Exh-5 application. Plaintiff has filed this application for amendment in plaint more particularly in the boundaries of suit properties. Plaintiff has given reason that after receiving copy of partition she come to know the exact boundaries of property. Defendant has objected the same but considering the nature of suit and rights involed in the properties of parties I found that if error in boundaries of suit property is corrected the no harm would caused to defendant. Considering above noted reasons I found that plaintffs are entitiled for the amendment as sought. Hence I record my finding to point no.1 is in affirmative and as to point no. 2 I pass following order.

ORDER

- 1 The application is allowed.
- 2 Plaintiffs are directed to carry out amendment within stipulated time.

Date :08/11/2016

(Sumit V Joshi)
Jt.Civil Judge J.D. Daund,
Dist. Pune.