

	RCS No. 80/2021 Madhukar B. Bankhele Vs. Bajrang Mahadu Bheke
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ORDER BELOW EXH. 32

Plaintiff has filed the present application for addition of third party as defendant no. 9 and amendment under Order 6 Rule 17 of the Code of Civil Procedure 1908 ("C.P.C.")

02. Defendant objected to the application by filing a reply.

03. Heard both sides at length. Considered their submissions.

04. The ld. Adv. for the plaintiff submitted that the present suit is for declaration and permanent injunction. The defendant Nos.1 and 2 have the knowledge of the present suit. They have knowledge that the present suit is pending and the suit property is the subject to the decision of the court. Despite that on 01/01/2025 defendant nos. 1 and 2 sold the suit property without any right, ownership and necessity to the third party namely Darshan Pandurang Nighot by registered sale deed no. 08/2025. The name of said third person is recorded on 7/12 extract by the mutation entry No.3461.

05. He further submitted that by the registered sale deed the said third person does not acquire any right in the suit property. The plaintiff is the owner of suit property by the sale deed of 1964. He is in the possession of suit property. The said third person is now illegally trying to acquire the possession of suit property. The plaintiff has that apprehension. If this happens the plaintiff will suffer irreparable loss. Therefore it is necessary to add the said third person as defendant and amend the suit by adding content mentioned in

the application regarding the said transaction. Hence he prayed to allow the application.

06. The ld. Adv. for the defendants submitted that if the suit property is sold during pendency of the suit then it is not necessary to add the purchaser in the suit. To support this contention he filed the citation of Hon'ble High Court of Karnataka **Sri. Narayanaswamy vs. Sri. Ramanjinappa dated 18th July 2022 WRIT PETITION NO. 55266 OF 2016(GM-CPC)**. He further submitted that the provision of Lis Pendens is binding on the purchaser. There is no need to allow the application. Hence he prayed not to allow the application completely.

07. I consider the following points for determination and record findings thereon with reasons mention as under : -

Sr. No.	Points	Findings
1)	Whether the plaintiff has made out that the present amendment is necessary to decide the real controversy between the parties ?	Yes.
2)	Whether the plaintiff has filed the present application with due diligence?	Yes.
3)	What order?	Application is allowed.

REASONS

08. In support of averments, the plaintiff has produced following documents:

- Certified copy of registered sale deed no. 08/2025 dated 01/01/2025.

- Digital copy of 7/12 extract of suit property block no. 30/11/२ dated 01/02/2025.
- Digital copy of mutation entry of suit property block no. 30/11/२ dated 02/02/2025.
- Original copy of NCR given plaintiff to the Manchar Police Station dated 03/02/2025.

As to point Nos. 1 and 2 -

08. Point Nos. 1 to 3 are interlinked to each other. Therefore, they are discussed together to avoid repetitions. According to the plaintiff, the present amendment is imperative for adjudication of the present suit. On perusal of record and documents it appears that the suit property was sold to the third person namely Darshan Pandurang Nighot by registered sale deed no. 08/2025 on 01/01/2025. The said transaction is admitted by the defendants. In view of the said transaction the name of said third person is recorded on 7/12 extract of suit property block no. 30/11/२ by the mutation entry No.3461.

09. The contention of the defendant is that if the suit property is sold during pendency of the suit then it is not necessary to add the purchaser in the suit. To support this contention he filed the citation supra. Perused the citation supra. The Hon'ble High Court of Karnataka in **Sri. Narayanaswamy vs. Sri. Ramanjinappa** dated 18th July 2022 WRIT PETITION NO. 55266 OF 2016(GM-CPC) said that “ *In a partition suit, a pendente lite purchaser is not at all a necessary party. The Court is required to examine the nature of suit schedule property and if found to be joint family ancestral property has to quantify the shares. Therefore, while drawing the preliminary decree, neither the purchaser before filing of the suit nor the pendente lite purchaser are necessary parties. Their presence is absolutely not necessary to adjudicate the controversy between the family members. Even otherwise, the right of a purchaser in a pending partition suit is subject to quantification of share. A pendente lite*

purchaser cannot contest the suit and his sale deed is subject to the determination of the share by the Trial Court. Therefore, I am of the view that a pendente lite purchaser is not at all a necessary party.”

10. The facts of the present suit are different from the facts of the citation. The Ratio laid down in the citation is applicable for the suit of partition and separate possession only. Therefore the Ratio laid in the given citation is not applicable to the present suit in hand.

11. It is settled law that the court should make all the endeavors to avoid multiplicity of litigation and protraction of the trial in the suit. The purpose of allowing the amendment is to put at rest the controversy in the same suit. The intention of the legislature in framing order 6 rule 17 of C.P.C. is to encompass the subsequent events, if they are connected with the original cause of action and to permit amendment of pleadings for effective adjudication of all the issues in the trial of same litigation.

12. In view of the facts of the suit and also considering the above settled law as well as the proposed amendment, I am of the view that the proposed amendment is only subsequent in nature and same will not change the nature of the suit. Moreover, the proposed amendment is subsequent in nature which came to the knowledge of the plaintiff after the above said transaction of sale deed dated 01/01/2025. After the said transaction, plaintiff has diligently on 14/02/2025 filed the present application for amendment. The said amendment is necessary to be brought on the record in order to decide all the issues in controversy and also to enable the court to effectively and completely adjudicate upon and settle all the questions involved in the suit. Hence I answer point no. 1 and 2 in affirmative.

As to point No. 3

13. No prejudice would cause the defendants, if the proposed amendment is allowed. Hence, it is essential to grant permission to the plaintiff

to add the proposed amendment as mentioned in the present application and insert the amendment as prayed in the interest of justice. Therefore, in order to avoid multiplicity of proceedings the application deserves to be allowed. Hence in answer to point no. 3, I pass following order.

ORDER

1. The application is allowed with costs.
2. The plaintiff is directed to add Darshan Pandurang Nighot as a defendant No. 3 to the suit within 14 days from the date of the order.
3. The Plaintiff shall carry out the amendment as per present application within 14 days from the date of the order and supply the amended copy of the plaint to the defendants and the court.

Sd/-

(Sneha Sunil Pulujkar)

2nd Jt. Civil Judge Juinor Division,
Ghodegaon, Dist. Pune

Date : 27/02/2025
Ghodegaon

CERTIFICATE

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

Name of the Court	: Smt. Sneha Sunil Pulujkar, 2 nd Jt. C.J.J.D. and J.M.F.C., Ghodegaon, Dist. Pune.
Name of the Steno	: J. S. Kaite, Steno Grade - III.
Order / Judgment date	: 27/02/2024.
Order / Judgment signed by P.O. on	: 27/02/2024.
Order / Judgment uploaded on	: 27/02/2024.