

**::ORDER PASSED BELOW EXH.102 IN
R.C.S.No.24/2015::**

Pundalik Laxman Kambari & Ors. ...Plaintiffs.

V/s.

Damu Kanu Kambari & Ors. ...Defendants

This is an applicaton filed by Plaintiff no. 1 and 2 under order VI Rule 17 of the Civil Procedure Code for amendement in the plaint. The present suit is filed for partition of the suit properties and for the relief of declaration that sale deed of some Survey nos. out of the suit properties are not binding on Plaintiffs. Plaintiffs have compromised the suit with defendants in respect of some Survey nos. Now therefore these Survey nos. needs to be removed from the suit properties. They therefore have filed the present application for amendement in the plaint with a prayer of deleting some of Survey nos. out of the suit properties.

Plaintiff nos. 3 to 6 have opposed the present application through their says belows exh.106. They have denied contents of the application. It is submtted that Plaintiff no. 1 and 2 have no right to delete some of Survey nos. out of the suit properties. Plaintiff no. 3 to 6 have not compromised with any of defendants in respect of any Survey nos. out of the suit properties. These Plaintiffs have their undivided share in the suit properties. If some properties out of the suit properties are deleted then these Plaintiffs suffer in the preparable loss. They therefore have prayed for dismissal of the present application.

..2...

Heard learned advocates. Perused the application and say. The present suit is filed by Plaintiff nos. 1 to 6 against Defendant nos. 1 to 25. The suit is filed for partition. As per the case of Plaintiffs the suit properties are not yet partitioned. It means all Plaintiffs have an undivided share in the suit properties. Even if it is assumed that Plaintiff no. 1 and 2 have compromised with Defendants in respect of some of the suit properties, their share having unascertained, it would not be proper to delete some Survey nos. out of the suit properties. I am therefore of the specific opinion that in order to avoid further complications it would not be proper to delete some Survey nos. out of the suit properties. On the contrary no hardship will be caused to Plaintiff no. 1 and 2 if, some Survey nos. out of the suit properties are deleted. This is also because Plaintiff no. 1 and 2 did not mention in this application as to how they will suffer irreparable loss if these Survey nos. are not deleted from amongst the suit properties. Hence I do not have any substance in the present application. Hence the Order.

:: ORDER ::

1. The application stands rejected.
2. No order as to cost.

Karjat
Date:25/04/2019

Sd/-
(Manod V. Tokale)
Civil Judge Junior Division, Karjat.