

MHRG140006452019



R.C.S. 88/2019

Order below Exh. 76

This is an application under O. 6 R. 17 of the Code of Civil Procedure, 1908 (hereinafter referred to as the C.P.C.).

2. Plaintiff has instituted this suit for partition and separate possession.

3. Plaintiffs have claimed that the defendant no. 3 has sold the suit property to the Sakshi Surendra Raut and Sanvi Sushil Raut. They are added as parties to the suit. However, in view of such amendment, pleadings needs to be amended. Moreover, cause of action and prayer also requires to be amended. So also, consequential amendment and cause of action need to be amended in view of addition of parties. It is necessary for the just decision of case on merits.

4. The application is strongly opposed on the ground that the application is false. It is not maintainable. It is barred by limitation. Plaintiffs are trying to put up new case. It will affect defense. After withdrawal of application on same grounds, this application cannot be filed. Smt. Devayani Maruti Thakur is not party to the suit. The proposed amendment will change the nature of the suit.

5. I have heard learned advocate for plaintiffs and defendants. It is seen that plaintiffs are seeking to amend plaint in view of subsequent sale and consequential amendment in pleadings.

6. The Order 6, Rule 17 provides that, '*the Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real question in the controversy between the parties.*'

7. Considering these aspects, it is seen that the proposed amendment is necessary for the just decision of the case and it will not change the nature of the suit. Therefore, application deserves to be allowed. However, delay needs to be compensated. Consequently, I pass following order.

ORDER

1. Application is allowed subject to costs of Rs. 500/- to be paid to defendants.
2. Plaintiff shall carry out the amendment within 14 days.

Uran,
Date :10.01.2025

(Vikas D. Bade)
Jt. Civil Judge, J.D., Uran