

Order Below Exh. 37 in Regular Civil Suit No. 38/2020

1. This application is filed by plaintiff for amendment in the plaint.

2. The suit is for partition and separate possession. During pendency of this suit defendant no. 1 executed will of suit property in favour of defendant no. 2. The said will was executed on 06.08.2021.

Now by way of proposed amendment plaintiff intended to state that the will executed by defendant no. 1 in favour of defendant no. 2 is null, void, fabricated and bogus. During pendency of suit defendant no. 1 died on 02.10.2021. There are several question raised in connection with genuineness of will. To avoid multiplicity of proceeding and complexity in the matter the application is deserved to be allowed. Plaintiff claiming that the said will is null and void.

Defendant no. 2 filed reply at Exh. 43. It is contended by the defendant that the will is genuine. The amendment application is required to be rejected.

3. In my view the amendment is in connection with suit property. To avoid multiplicity of proceeding, the application is required to be allowed. The amendment is necessary to decide real controversy of dispute in the suit. The amendment does not change the nature of suit neither it is inconsistent with original pleading. Admittedly the will was executed during pendency of suit. To sum-up, I pass following order.

ORDER

1. Application is hereby allowed.
2. Plaintiff is directed to carry out amendment at Exh. 1.
Plaintiff is directed to furnish fresh copy of plaint
alongwith copy for defendant.

Sangli.

Date : 01/07/2022

Sd/-

(Vivek V. Kulkarni)

5th Joint Civil Judge, Senior Division,

Sangli.