


MHSN020010742012 	<u>Spl.C.S.No. No. 92/2012</u> <u>Shoukat Allabakash Bagwan etc.4</u> <u>Vs.</u> <u>Suhas Rajaram Bhosle etc.29</u>
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Order below Exh. 286
(Passed on 03/12/2025)

This is an application for amendment in plaint vide Order 6 Rule 17 of Code of Civil Procedure.

2. It is contended that, suit is for specific performance of agreement to sell and for permanent injunction. All the plaintiffs have deposited the remaining amount of consideration in the court jointly. However, defendant Nos.3 and 4 are age old persons and they are facing financial problems as well. Therefore, plaintiff No.1/C and 1/D and plaintiff No.2 have paid the entire amount of consideration of the share of plaintiff Nos. 3 and 4 with interest to them. In turn they have given right to the plaintiff to get executed sale-deed of their share in their favour.

3. Further, few defendants have also executed sale-deed in consonance with the agreement to sell in question on 27/05/2024 to the extent of their share in favour of plaintiff No.1/C and 1/D and plaintiff No.2. All these events have taken place during pendency of present suit. Therefore, being subsequent events, the plaintiff is constrained to move application under consideration for amendment in plaint. The amendment sought for will neither change the nature of the suit nor will cause any prejudice to the defendants. Hence, they prayed for allowing the application.

4. Defendant Nos.1, 2/1 to 2/4 and 3 have given no objection to allow the application.

5. Heard learned advocates for both sides and gone through the record of proceeding. As I mentioned earlier, originally suit was filed by four plaintiffs against 29 defendants. As rightly pointed out by learned advocate for the plaintiff, all the plaintiffs jointly had deposited the remaining amount of consideration in the court which come to their share as per the agreement. Present application has been moved by all the plaintiffs, which means plaintiff No.3 and 4 admits that they have got back the amount of their share deposited in the court from plaintiff no. 1/C and 1/D and plaintiff No.2. They have no objection to it. Further, it is also admitted by the defendants that several defendants have executed sale-deed in consonance with the agreement to sell in question in favour of plaintiff Nos. 1/C and 1/D and 2.

6. Further, all these events have taken place during the pendency of present suit. However, it is pertinent to note here that, the suit is of the year 2012. It was part heard when these events had taken place. Therefore, definitely it comes under the purview of subsequent events. But, it is not mentioned in application that, in which para of the plaint the plaintiffs are intending to carry out the amendment or what amendment they are intending to carry out. Details of it are not given in the application. Furthermore, no change has also been suggested in application in prayer clause as well. Only it is contended that, name of defendant no.3 and 4 be deleted. However, in my considered view for impleading or deleting any party, the plaintiff was required to opt the recourse of order I Rule 10(2) of the Code of Civil Procedure instead of moving application under Order VI Rule 17 of Code of Civil Procedure as the requirements of both these provisions are totally different.

7. Even for the sake of argument, if it is considered that, the provision is wrongly mentioned, then also suit is for specific performance of agreement to sell which was executed by the defendants in favour of all the four plaintiffs. Even if, some of the plaintiffs have surrendered their right in favour of remaining plaintiffs then also the plaintiffs surrendering their rights in favour of other plaintiffs are required to be considered as proper party. Rather in my view as necessary party. Because, without their presence the suit cannot be effectively decided. Hence, in my view application is vague and has been moved carelessly or negligently. Hence, I pass following Order:

ORDER

Application (Exh.286) is rejected.

Sangli.
Date : 03/12/2025

(Vibha P. Gaikwad)
Jt. Civil Judge Sr.Dn., Sangli.

CERTIFICATE

I affirm that the contents of this P.D.F. file order are same, word to word, as per the original Order.

Name of the Stenographer. : D. S. Pawar, Grade-2
Court. : Jt. Civil Judge Senior Division, Sangli.
Date of Order. : 03/12/2025
Order signed by
the Presiding Officer on. : 09/12/2025
Order uploaded on. : 09/12/2025