

Common Order Below Exhibit no. 97 and 99
(Sandipan Vs Dada & ors.)

1. Plaintiff has filed present applications Exh.97 under O.1 R. 10 and Exh.99 under O.6 R.17 of Code of Civil Procedure.
2. It is contention of plaintiff that, during pendency of suit for partition and possession defendant no.2 has sold 0.40-R land out of suit property to proposed defendant Maya Aldar on 24/08/2021. Defendant no.2 has intentionally sold the property and has specifically mentioned in their affidavit that, no suit or dispute about the property is pending in the Court. The proposed defendant / purchaser is necessary party to the suit. Hence, prayer to allow the applications.
3. Defendant has filed the say overleaf the applications and resisted the same. Defendants have denied all the contentions raised in the application. The plaintiff has not filed any documentary evidence to support their contentions. Hence prayed to reject both the applications.
4. Heard both the advocates. I have gone through the pleadings and documents filed on record. The suit is filed for partition and possession. Gat no.2542 is one of the suit property. The plaintiff has filed on record the photo copy of sale deed below list of document below Exh.102. On perusal of the said registered sale deed defendant no.2 Santosh has sold 0.40-R out of gat no.2542 to proposed defendant for consideration.
5. Defendant no.2 has sold part of suit property during the pendency of suit despite of having knowledge of pending suit.

The proposed defendant has entered into the shoes of defendant no.2 to the extent of 0.40-R. The proposed defendant is in possession to that extent. The suit being for partition and possession, the proposed defendant is necessary party for proper adjudication of the suit. Considering all these facts and circumstances I find merits in the application. Accordingly, I pass the following order.

ORDER

1. The applications at Exh.97 and 99 are allowed.
2. Plaintiff is permitted to carry out amendment as prayed in the applications and implead proposed defendant in the title clause of the suit on or before next date.
3. Plaintiff shall file copy of amended plaint on record.
4. Cost in cause.

Atpadi
Date-05/08/2024

(R.B.Kulkarni)
Jt. Civil Judge Jr. Dn. Atpadi.

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 - A. A. Jamadar
Court - Jt. CJJD and JMFC, Atpadi.
Date - 05.08.2024
Order signed by the
Presiding Officer on - 05.08.2024
Order uploaded on - 05.08.2024