

ORDER BELOW EXH.45 IN RCS No.42/2011

The plaintiff has filed present application under order 1 rule 10(2) of Code of Civil Procedure for adding Ashok Dattu Katkar as defendant no.20 to the present suit.

2- It is the contention of plaintiff that the suit is for partition and separate possession. During pendency of the suit the defendant no.1 and 3 have executed sale deed in fav our of Ashok Dattu katkar which is not binding on the share of the plaintiff. The plaintiff wants to add proposed defendant for the deciding real controversy between the parties. In such situation, the proposed defendant be added as necessary party to the suit. Lastly, prayed that application be allowed.

3- The defendant no.2 has resisted this application by filing say on same application. He has contended that present application is false and bogus only to prolong the matter. The present application is not tenable in the eye of law. Hence, application be rejected with costs.

4- Heard both sides. On perusal of plaint, written statement and documents, it appears that the suit is for partition and separate possession. The plaintiff has produced

certified copy of the sale deed executed in the name of proposed defendant longwith list Exh.47. The proposed defendant appears to be necessary party to the present suit. In order to avoid multiplicity of suit and for the just decision of suit he is required to be added as defendant to resolve the dispute full and finally between the parties. Considering the conduct of the plaintiff, present application is required to be allowed subject to cost. Hence, I pass following order.

ORDER

1. The application Exh. 45 is allowed subject to cost of Rs.200/- (Rs. Two hundred).
2. The plaintiff is permitted to carry out proposed amendment by adding defendant no.20 as defendant in plaint within 14 days from the date of this order.
3. The cost be given to defendants within one month of this order, otherwise this order stands vacated.

Place : Kavathemahankal

Date : 06/09/2017

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[Manoj C. Nepte]
Jt. Civil Judge Junior division
Kavthemahankal.