

ORDER BELOW EXH. 95

Plaintiff has filed this application for amendment in the plaint under Order 6 Rule 17 of CPC. Plaintiff submitted that defendant has filed the counter claim along with the suit and also filed the application for temporary injunction. The temporary injunction of plaintiff was granted. On 06/08/2014 plaintiff sold out the property in favour of Vinod Chandwani during the pendency of the suit and handed over possession to him. Therefore, Vinod Chandwani became the owner and possessor over the suit property. Therefore, his name is required to be mentioned as defendant no. 10 and want to amend the plaint in para no. 25 as 25(a). This is the subsequent event. If application is allowed no loss will be caused to the defendant. If application is rejected there is irreparable loss to the plaintiff.

2} Defendant has filed say at Exh. 99 and denied the contention. Defendant submitted that the amendment is purely technical in nature. The amendment on the basis of subsequent event is denied by the defendant. During the pendency of the suit plaintiff disposed the property and this fact was not intimated to the court. After 4 years of the suit this application is filed. Therefore, prayed to pass the appropriate order.

3} Both parties are called out, they remained absent. Therefore, the application proceeded to be treated as heard.

4} Considering the application and say following points arise for my determination to which I have recorded my findings along with reasons as under :-

	<u>POINTS</u>	<u>FINDINGS</u>
1}	Whether amendment is necessary ?	... Yes.
2}	Whether nature of suit will be changed if application is allowed ?	... No.
3}	What order ?	...Application allowed.

REASONS

As To Point Nos. 1 & 2 :-

5} It is an admitted fact that during the pendency of the suit, the suit property was disposed of by the plaintiff in favour of Vinod Chandwani and plaintiff want to add his name as defendant no. 10. Also want to add the para no. 25(a). No doubt this is the subsequent event. Only question remains that why the plaintiff did not amend the plaint immediately after the transaction. There is delay caused to amend the plaint. If application is allowed no prejudice would be caused to the defendant. On the contrary matter will be decided on merit. Considering all these reasons amendment is necessary and if amendment is allowed no nature of suit is changed. For the delay costs can be imposed. Therefore, answer of point nos. 1 & 2 are accordingly. Hence, following order.

ORDER

1} Application Exh.95 is hereby allowed on costs of Rs. 1,000/-. Costs be paid to the legal aid within 7 days.

...{3}...

Spl.C.S. No. 622/2014

Exh.95

- 2} After payments of costs plaintiff shall carry out the amendment within stipulated time.

Dictated and pronounced in open court.

Date: 24/08/2018.

(S.S. Ghorpade)
2nd Jt. C.J.S.D. Pune.

...{4}...

Spl.C.S. No. 622/2014

Exh.95

CERTIFICATE

I affirm that the contents of this P.D.F. file Order is same word for word as per original Order.

Name of Steno	:	R.L. Bhunyar (Stenographer Grade-II)
Court Name	:	S.S. Ghorpade 2 nd Jt. C.J.S.D., Pune.
Date of Order	:	24/08/2018
Order signed by the Presiding Officer	:	27/08/2018
Order Uploaded on	:	27/08/2018