

Latabai V/s. Vilasrao.

Order Below Exh. No. 107.

(Dated 13.12.2018)

01 Present application filed by plaintiff under Order 6 Rule 17 of the Code of Civil Procedure for amendment of pleading on record. According to plaintiff, he has filed present suit against defendant for partition and separate possession of the suit property. According to plaintiff, during the pendency of this suit, he has filed application vide Exh. No. 58 for amendment of pleading and by the said application he has sought for addition of defendant No. 5 to 13 in the suit. According to plaintiff, when the application Exh. No. 58 was pending at that time one more application for addition of parties vide Exh. No. 62 was filed and subsequently, it was allowed. As the application vide Exh. No. 62 was allowed and Shashikant Pandurang Shinde was arrayed as a party defendant No. 5 in the suit. As the defendant No. 5 Shashikant Pandurang Shinde have been arrayed as defendant No. 5 in the suit, therefore, the application vide Exh. No. 58 is required to be amended in the serial number. The plaintiff also submitted that, during the pendency of this application, the proposed defendant No. 7 Sakharam Aatmaram Gaikwad have been died and his legal heirs are required to be taken on record and their number required to be changed. Accordingly, plaintiff prayed for allowing the application. Plaintiff submitted that, the proposed amendment is just and necessary for effectual disposal of the suit. Therefore, plaintiff prayed for allowing the application.

02 Say of defendant was called for. Defendant has filed his say and strongly opposed the present application. The defendant submitted

that, the application under reply is without any substance and prayed for rejection of it. Therefore, defendant prayed for rejecting the application with costs.

03 Heard learned advocate for both sides.

04 Perused the record and documents filed on record in the light of argument advanced. On the perusal of the record, it is noticed that, the application vide Exh. No. 62 was allowed by Hon'ble predecessor of this Court and Shashikant Pandurang Shinde was arrayed as defendant No. 5 in the suit. As the defendant No. 5 has been arrayed in the suit, therefore, the serial numbers in the application vide Exh. No. 58 is required to be changed for avoiding complications in the matter. In my opinion, during the pendency of this application, the proposed defendant No. 7 Sakharam Aatmaram Gaikwad has been died, therefore, word deceased required to be written before his name and his legal representatives have to be brought on record. In such circumstances, for effectual disposal of the suit proposed amendment in the application is liable to be allowed. Hence, I proceed to pass the following order :-

::ORDER ::

- 01** Application vide Exh. No. 107 is allowed.
- 02** The plaintiff is hereby directed to carry out the amendment vide Exh. No. 58, within 14 days from the date of the order.
- 03** Cost in cause.

Date :13-12-2018.

(S. S. Aradwad)
Jt. Civil Judge Junior Division,
Pandharpur.

C E R T I F I C A T E

I affirm that the contents of this PDF file Judgment/ Order is same word to word as per the original Judgment.

- a Name of the Stenographer : Shri. P.T. Jadhav
- b **Court** : **Jt. C.J.J.D.& J.M.F.C.,
Pandharpur.**
- c Date of Order : 13-12-2018.
- d **Order** signed by P.O. on : 13-12-2018.
- e Order uploaded on : 13-12-2018.