

Order below Exh.128
(Passed on 18.12.2021)

The plaintiffs have filed the present application under order VI rule 17 of the Code of Civil Procedure for amendment in the plaint. It is the contention of the plaintiff that, in the present suit the interim injunction application is allowed by this Court and court has directed the defendants not to alienate the suit property during the pendency of present suit. But, in spite of interim injunction order passed by this Court, defendant No.1 by taking benefit of his name to the record of rights of the suit properties has executed gift deed in favour of one Amit Bhojling More as on 24.08.2020. The gift deed registered number is 1681. Therefore, the Amit Bhojling More is required to be added in the present suit as a party defendant No.13. So also, the gift deed executed in favour of Amit More is not binding upon the shares of plaintiffs. Therefore, to that extent the proposed amendment is sought. The plaintiffs have further contended that, one typographical mistake is also occurred while giving the number of defendants as 5 to 13. Therefore, said clerical mistake also required to corrected. Hence, plaintiffs are prayed to allow the application.

2. Defendants by filing their say have strongly opposed to the present application and submitted that, the contents of application are not true and correct. Plaintiffs have not produced any documents to show that, defendant No.1 executed any gift deed in favour of proposed defendant namely Amit More. Therefore, without production of copy of gift deed the present application filed by the plaintiffs is not tenable. Hence, defendants are prayed to reject the application.

3. Considering the rival contention of both the sides, so also, I have gone through the contents of application, from it appears that, the plaintiffs have specifically given the number of registered gift deed as 1681 dated 24.08.2020. The contents of application is supported by affidavit of plaintiff namely Urmila Mahadev Khilare (Exh.129). The plaintiffs have also given specific description of the suit properties and area of the property which is mentioned in the gift deed. Today the plaintiffs have produced the copy of registered gift deed on record. Therefore, the contents of application are supported by the documentary evidence. So far as other amendment is concerned, same is in respect of clerical mistake. The proposed amendment is appears to be bonafide, it will not change nature of suit, because the suit is filed for partition and separate possession in respect of ancestral joint hindu family property. The proposed amendment also not caused any prejudice to the rights of defendants. Therefore, to decided the real controversy between the parties on merit, I proceed to pass following order.

ORDER

- a. Application is allowed.
- b. Plaintiffs are permitted to carry out necessary amendment in the plaint within stipulated time subject to costs of Rs.500/- to pay otherside.

Pandharpur.
Date : 18.12.2021.

[A. P. Karad.]
Jt. C.J.J.D, Pandharpur

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 : *Rajiv Malkarjun Gogi.*

Court : Jt. Civil Judge, J.D. Pandharpur.

Date : 18.12.2021

Signed by the
presiding officer on : 18.12.2021

Uploaded on : 20.12.2021