

**ORDER BELOW EXH.49 IN RCS No.93/2022**

(Passed on 21/10/2024)

This is application for amendment in in plaint. As per the application defendant No.1 transfer 20R land potkharab 1R to Parvej Jainuddin Dange during pendency of the suit for a consideration of Rs.19,55,000/-. The purchaser has not paid a consideration. This transaction took place to avoid share of the plaintiff. Therefore, the sale deed is not binding on the plaintiff. By the proposed amendment nature of the suit will not be changed. Hence, application may be allowed.

2. The defendant has submitted say that by the proposed amendment nature of the suit will be changed. The trial is commenced. Therefore, application may be rejected.

3. Defendant No.8 has submitted say that the application is not tenable and maintainable. The sale deed is not submitted along with application. Therefore, the application may be rejected.

4. Heard learned advocate of plaintiff.

5. The suit is for partition and separate possession with perpetual injunction. As per submissions of learned advocate of plaintiff during pendency of the suit a said transaction took place. On the other hand, learned advocate of defendant No.8 submits that, the sale deed is not submitted with the application. Therefore, the application is not tenable. Learned

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advocate of defendant Shri.S.B.Dev submitted that by the proposed amendment the nature of the suit will be changed. Therefore, application may be rejected.

6. It is not necessary to file a copy of sale deed at this stage. Defendant No.1 has not denied the execution of sale deed. Therefore, there is no substance in submission of learned advocate of defendant No.8.

7. During pendency of the suit defendant No.1 executed sale deed in favour of Parvej Dange. Therefore, nature of the suit will not be changed, as the suit is for partition and separate possession. The presence of Parvej Dange is necessary and proper considering nature of the suit. Therefore, I pass the following order:-

### **ORDER**

1. The application is allowed.
2. The plaintiff shall carry out amendment.

Sd/-

Date-21/10/2024.

(U.V.Joshi)  
Civil Judge Senior Division,  
Malshiras.