

ORDER BELOW EXH. 56 IN Spl. C. S. NO. 251/2022

(Rajendrakumar Shinde and Ors. Vs. Jayashri Shinde and Ors.)
[CNR No.MHSO12000721-2022]

Defendants no.5, 6 and 7 have filed present application for permission to amend their written statement. It is their contention that, during the pendency of the suit revenue department has passed various orders regarding suit property. Revenue authorities have held that Gat no.227/2 is self acquired property of defendant no. 5. Those facts are required to be brought on record. Hence, the application.

2) The plaintiffs have objected the application by filing their say at Exh.62 on the ground that, the application is not maintainable. Defendants have no locus standi to seek amendment on the basis of alleged orders. The alleged orders are yet not attained finality. The RTS Appeal No. 74/2025 is still pending. The property bearing Gat no. 227/2 has been purchased by the Bhanudas and it is joint family property. The plaintiff has claimed partition of said property. The trial is yet to be completed and evidence is yet to be recorded. Before that no conclusion can be drawn about self acquired property. Lastly, they prayed that the application be rejected.

3) Perused application and say thereon. Heard both sides. As per Order 6 Rule 17 of Code of Civil Procedure, 1908 every amendment necessary for determination of real controversy between the parties may be allowed at any stage of the suit. But, proviso appended to Rule 17 of CPC create an embargo to allow the application after commencement of the trial, unless the court comes to the conclusion that in spite of due diligence party to the suit could not raise the matter before commencement of trial. In the case on hand, issues are framed but the plaintiffs have yet not led their evidence.

4) Now it is to be seen whether the amendment is necessary for determination of real controversy between the parties. On perusal of plaint, it is seen that, the plaintiff has filed suit for partition and separate possession. The nature of property is most important factor in partition suit. Defendants no. 5 to 7 have mentioned in their written statement at exh.27 about RTS Appeal No.178/2021 and orders passed thereon. They have also mentioned that the mutation entry no.1089 has been canceled by appellate authority. By way of present application defendants want to mention further development before revenue authority regarding mutation entry no. 1079, 364 and 420. Considering the nature of suit and reliefs claimed by the plaintiffs , the amendment sought by defendants is necessary to determine real controversy between the parties. No prejudice will cause to the plaintiffs, if application is allowed. The plaintiffs can be compensated for the delay caused by the defendants to file present application. Hence, the following order.

ORDER

1. The application below Exh.56 is allowed subject to cost of Rs.500/-(Rs. Five hundred only) to be paid to plaintiffs on or before next date.
2. The defendants no.5, 6 and 7 are permitted to carry out amendment in the written statement as prayed in the application at exh. 56 on or before next date.

Date : 18/11/2025

(**Revati M. Kante**)
Jt. Civil Judge, Sr. Div., Barshi.

CERTIFICATE

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

- a) Name of the Stenographer : G.L.Sutar, Steno. Grade-2
- b) Court : Jt. C.J.S.D. and A.C.J.M.,
Barshi.
- c) Date of Judgment/Order : 18.11.2025
- d) Judgment/Order signed by
the Presiding Officer on : 18.11.2025
- e) Judgment/Order uploaded on : 19.11.2025