

**Reg.C.S.No. 594/12.**

**ORDER BELOW EXH 380.**

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1] This is an application filed by legal heirs of plaintiff under Order 6 Rule 17 of Civil Procedure Code for amendment of plaint stating therein during the pendency of suit, land Gat No. 819 sold by defendant No. 8 to one Kishor Satnak and Amol Satnak on 17/4/2008. The said fact came to know to the plaintiff. Present suit is for partition and separate possession and it is a subsequent development during the pendency of suit. So newly purchasers require to be brought on record as defendants and it requires to amend para No. 5A and 5B of plaint about the said transaction. So they prayed for amendment of plaint and if the proposed amendment is allowed, no any prejudice will be caused to the defendants.

2] Defendants filed their say and strongly objected for amendment of plaint. The plaintiff wants to prolong the matter. The reason shown for amendment of plaint is not proper and present application filed by plaintiff is only to prolong the matter and therefore they prayed for rejection of application of plaintiff.

3] On pleading of both parties, following points arise for my determination and I have recorded my findings thereon with reasons are as under :

<u>Points</u>	<u>Findings</u>
1] Whether plaintiff is entitled to amend his plaint as prayed for?	In affirmative.
2] What order?	As per final order.

### REASONS

4] As to Point No. 1 & 2 :

I have gone through the pleading of both parties, as well as application of plaintiff and documents on record. It appears that the present suit is filed in the year 1986 claiming relief of partition and separate possession against the defendants. The L.Rs. of plaintiff brought on record and they came to know during the pendency of suit, defendant No. 8 sold land Gat No. 819 to one Kishor Satnak and Amol Satnak on 17/4/08 under the registered sale-deed. It is pertinent to note that defendants has not specifically denied about the said transaction and they keep mum and only strongly objected for amendment of plaint. Further it appears that with a view to avoid the obligation and present matter is for partition and separate possession, so it requires amendment of plaint. If the proposed amendment is

allowed, no any prejudice will be caused to the defendant. So with a view to avoid multiplicity of suit, as well as, with a view to brought on record real controversy in between the parties, proposed amendment is essential one. Therefore plaintiffs are entitled to amend their plaint as prayed for. So I answer on point No. 1 in affirmative and proceed to pass the following order.

**ORDER**

1. An application below (Exh. 380) is hereby allowed.
2. Plaintiffs are hereby permitted to amend their plaint as prayed for subject to cost of Rs. 300/- payable to defendants on or before next date.
3. Cost is a condition precedent.

Date : 3rd August, 2012.

( Vikramaditya K. Mande )  
Jt. Civil Judge, S. D.,  
Barshi.

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