

ORDER BELOW EXH 443.

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1] This is an application filed by plaintiff under Order 6, Rule 17 of Civil Procedure Code. He pleaded that during pendency of the suit defendants alienated a property to one Bibhishan Satpute. So it is required to add him as a defendant No.10 in the present suit and to that effect it is required to amend the plaint and to show that land Gut No. 555 alienated to Bibhishan Satpute and said alienation is not binding to him. So the proposed amendment is a subsequent development in the present suit and it does not change the nature of the suit, therefore, he prayed for amendment of the plaint.

2] Defendants filed their say stating therein that application filed by plaintiff is not legal and tenable one. Matter is already heard and at this stage proposed amendment can not be allowed and it will be caused hardship to them. So 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 for the reasons stated herein below :

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

REASONS

4] **As to Point Nos. 1 & 2 :**

I have gone through the application of plaintiff, say of defendant, heard Shri R.N. Bugde advocate appearing on behalf of plaintiff and Shri Awate advocate and Naiknaware advocate appearing on behalf of defendant Nos. 5,7 and 9 at length. It appears that present suit is very old one instituted in the year 1986. Matter is for evidence but the plaintiff pleaded in his application that during the pendency of the suit, suit land Gut No.555 transferred in the name of Bibhishan Satpute. He is a necessary party in the present suit and as well as in respect of said alienation it is required to amend the plaint and to plead the said alienation is not binding to the plaintiff. No doubt, defendant strongly objected the same. However, it appears that it is a subsequent development during the pendency of the suit. Land Gut No.555 is alienated in the name of Bibhishan Satpute. So it is just and proper to add to him as a defendant No.10 and to that effect it is required to amend the plaint. So the proposed

amendment does not change the nature of the suit and with a view to decide the rights of party and avoid multiplicity of the suit, plaintiff is permitted to amend his plaint as prayed for. So I answer on point No. 1 in affirmative and proceed to pass the following order.

ORDER

- (1) Application below (exhibit 443) is hereby allowed as prayed for.
- (2) Plaintiff is permitted to amend his plaint within time, subject to cost of Rs. 300/- payable to defendant.
- (3) Cost is a condition precedent.

Date : 01/08/ 2013.

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

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