

ORDER BELOW EXH. 59 IN SPL. CIVIL SUIT NO. 419/2022
(Sou. Sharada Dhanake and anr. Vs. Krushna Bhosale and Ors.)
[CNR No.MHSO12-001562-2022]

The plaintiffs have filed present application under Order 6, Rule 17 of the Code of Civil Procedure, 1908 (for short 'CPC') for permission to amend the plaint. It is their contention that, they have filed present suit for partition and separate possession and for other reliefs. Some of the defendants have appeared in the suit. During the pendency of the suit defendant no. 1 has sold 40R land out of suit property to one Dipali Balbhim Jadhav on 04.10.2023. The plaintiffs want to seek relief regarding said sale deed and include Dipali Jadhav as defendant no. 7 in the suit. Hence, the application.

2) Ld. advocate for Defendant no. 6 has filed say on the application itself and objected the application on the ground that, the application is not legal. Proposed amendment is also not legal. The nature of the suit will change by the amendment. Therefore, application be rejected.

3) Other defendants failed to file their say. So also notice was issued to proposed defendant Dipali Jadhav but inspite of service of notice she did not appear and file her say.

4) Perused application and say thereon. Heard both sides. As per Order 6, Rule 17 of CPC, the amendment in pleadings may be granted at any stage of the matter. But the proviso appended to Rule 17 of Order 6 of CPC has put an embargo in allowing amendment application after commencement of trial, unless the court comes to

the conclusion that in spite of due diligence the party could not have raised the matter before the commencement of trial. On perusal of record it is seen that, the suit is at initial stage and trial is not yet commenced. Therefore, said embargo is not applicable to present application. On perusal of plaint it is seen that the plaintiffs have filed present suit for partition and separate possession. Considering the nature of suit and reliefs claimed, proposed defendant no. 7 is proper party to the suit and proposed amendment will help in deciding real controversy between the parties. No prejudice will cause to the defendants if application is allowed. So also, the nature of the suit will not change by the amendment. Therefore, application deserves to be allowed. Hence, the following order.

ORDER

1. The application below Exh.59 is allowed with cost.
2. Plaintiffs are permitted to carry out amendment in the plaint, as prayed in application below Exh.59 on or before next date.

Date : 07/05/2025

(**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 : 07.05.2025
- d) Judgment/Order signed by
the Presiding Officer on : 07.05.2025
- e) Judgment/Order uploaded on : 22.05.2025