

Order Below Exh. 17 in R.C.S.No. 704 of 2012
(Passed on 09/02/2015)

Kalavati Ghongane etc. ;;;; Plaintiffs.
Vs
Shivaji T. Ghongane etc. ;;;; Defendants.

This is an application filed by the plaintiff seeking amendment of
plaint thereby sought to add some parties i.e. proposed defendant Nos. 03 to 07
and to add relevant pleadings by inserting para No.3A and 3B and
consequential amendment in para No.9A. Perused application and say of the
of the defendants. Heard both sides.

02] Having considered the facts of case, respective pleadings, it is to
be seen as to whether plaintiff is entitled to seek such amendment.

03] Yet hearing of the suit is to be commenced. Application is filed even before framing of the issues. In these circumstances, application is maintainable and can be considered on merit.

04] According to plaintiffs, they have no knowledge of the documents and thus, some defects are remained in the plaint. Defendant has pleaded that husband of plaintiff No.01 has adopted the son of the defendant. Same is not admitted to the plaintiff. Said fact is came to the knowledge of the plaintiff only after receipt of written statement. Further, said Shivaji has sold out area recorded in his name to one Shivani Jadhav and thereby sale deed have been executed. Thus, proposed defendant No.03 to 07 are the necessary parties to

the suit and the consequential pleadings is to be inserted to decide the suit on merit. Thus, plaintiff prayed to allow application as the nature of the suit will not be changed and no prejudice would be caused to the defendants.

05] Defendant opposed application claiming that only to fill up lacuna in the plaint, such amendment is sought and accordingly sought to reject the application.

06] Plaintiff herself contended that the defects are remained in the plaint. In these circumstances, unless said defects are cured which are material and substantial and also found to be necessary for the effective and final disposal of the suit suit cannot be decided finally. The plaintiff has pleaded lack of knowledge. In these circumstance, in view of the stage of the proceedings the proposed amendment and addition of parties appears to be necessary for the just decision of the case. Defendant already have had knowledge of the proposed pleadings and the parties. Thus, no prejudice would be caused to the defendants, if such amendment is allowed. In these circumstances, the applications have to be allowed. Hence, I pass following order.

ORDER

01. Applications Exh.17 is allowed a sprayed for subject to cost of Rs.500/- (Rs.Five hundred) to be paid to the defendants.
02. Plaintiff is directed to add the proposed defendants No.03 to 07 being necessary parties.

03. In para 3A the plaintiff should correct description of defendant No.03 instead of defendant No.08.
04. The plaintiff to comply and carry out amendment within 14 days failure to comply amendment would vacate order unless time is extended by the Court.

Date: 09th Feb.2015.

(Sudhir N. Shinde)
Jt.Civil Judge Jr. Division
Barshi.