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**ORDER BELOW EXH.90 IN R.C.S. NO.95/2015**

Perused the application, say filed by defendants thereon. Heard both sides.

[2] It is the contention of plaintiff that, the present suit is filed for partition. The agricultural land bearing block no.3216/2 area 1 H., 62 R is the subject matter of the present suit. During the pendency of suit, defendant no.2 by taking disadvantage of entry of her name on said suit property, sold the suit property in favour of Kishor Sukhadev Dattu and Pravin Vijay Khavatode and prepared illegal sale deed on 23/01/2023. Accordingly, plaintiff has prayed for carrying out the amendment regarding addition of purchasers, as defendant nos.9 and 10 respectively and adding the portion in that respect.

[3] Defendant nos.1 to 5 have filed their say on application itself and raised strong objection contending that, the said suit property is not ancestral property, it is separate property of defendant no.2. Therefore, no one has any right in the said property. The defendant no.2 is being sole occupant, has right to alienate the said property.

[4] Defendant nos.6 to 8 have filed their say at Exh.93 contending that, the said suit property is their ancestral property and they have share in it. They have no knowledge about the sell of suit property. Accordingly, they prayed for rejecting the application with heavy cost.

[5] The stage of the case is for evidence. On perusal of 7/12 extract of block no.3216/2 area 1 H., 62 R and extract of M.E. No.37403, it is revealed that, names of Kishor Sukhadev Dattu and Pravin Vijay Khavatode are mutated to the said property on the basis of sale deed dated 23/01/2023. It shows that, the said suit property has been sold during the pendency of the suit. But, plaintiff has filed suit for property bearing block no.3216/2b along-

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with other properties. It is revealed from extracts of M.E. Nos.18555 and 18556, Letter of Talathi Office, Mangalwedha regarding correction in block no.3216/2 situated at Mangalwedha, as per Section 155 and order of Tahsildar, Mangalwedha that, block no.3216/2b has been wrongly typed as block no.3216/2 and correction to that effect has been carried out by revenue authorities.

[6] At this stage, it is not necessary to look into the merits of the case, while considering the application for amendment. The proposed amendment will help for determining of real controversy between the parties. Plaintiff is claiming certain reliefs on the basis of subsequent changes that arose during the pendency of suit. Further, as the title of the suit property is with the purchasers, they are necessary parties for adjudication of the suit. It is well settled that, the rules of procedure are intended to be a hand made to the administration of justice. A party can not be refused just relief because of some mistake, negligence, inadvertence, delay on his part. If the proposed amendment is allowed, then it will not change the nature of suit. Therefore, in my view, it is necessary in the interest of justice to direct plaintiff to amend the plaint. The amendment will help to avoid multiplicity of proceeding and it will help to decide the real controversy between the parties.

[7] In the light of above discussion and after taking into account the facts and circumstances of the case, the proposed amendment is necessary for determination of real controversy in between the parties on merits and it will not cause injustice, prejudice to the other side. Resultantly, following order is passed :

### **ORDER**

- 1] The application is allowed. Plaintiff is hereby directed to carry out the amendment within 14 days, as per Order

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VI, Rule 18 of Civil Procedure Code. Plaintiff is further directed to file on record consolidated copy of plaint and copy for decree.

- 2] The proposed defendants i.e. necessary party be shown, as defendant nos.9 and 10 in the array of defendants. Plaintiff is directed to supply the copy of plaint and documents for defendant nos.9 and 10.

Date : 22/08/2023

(Smt. S.N. Gangwal-Shah)  
Civil Judge Jr. Dn., Mangalwedha

**CERTIFICATE**

I affirm that the contents of this P.D.F. file Order are same word to word as per the original Order.

(a) Name of the Stenographer : A.P.Hipparagi,

(b) Name of the Court : C.J.J.D., Mangalwedha, Dist. Solapur,

(c) Order signed by P.O. on : 22/08/2023

(d) Order uploaded on : 22/08/2023