

ORDER BELOW EXH.99 IN R.C.S. No. 95/2015
(MH50180007652015)

Perused the application, say filed by defendants thereon. Heard both sides. It is the contention of plaintiff that, during the pendency of suit, defendant no.9 and 10 have sold area of 1 H., 62 R out of the suit property bearing agricultural block no. 3216/2 in favour of Sushma Balasaheb Dhanave by sale deed. Accordingly, plaintiff has prayed for carrying out the amendment regarding addition of purchaser, as a defendant no.11. Defendant nos.1 to 5 have filed their say contending that, the contention mentioned in the application is false. It will change the nature of suit. Plaintiff has filed this application with intent to prolong the proceeding. Defendant no. 1 and 2 are old aged person. Hence, they prayed for rejecting the application with cost.

[2] The stage of the case is for part heard evidence. On perusal of sale deed attached with record, it is revealed that, area of 1 H., 62 R out of the suit property bearing agricultural block no. 3216/2 has been sold on 28/04/2023. It shows that, suit property has been sold during the pendency of the suit. 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 to determine the 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 purchaser, she is the necessary party 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. 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.

[3] By the proposed amendment, no new case is made out nor would it be said that, the application is malafide. 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 VI, Rule 17 of Civil Procedure Code. Plaintiff is further directed to file consolidated copy of plaint and copy for decree on record.
2. The proposed defendant be shown, as defendant no.11 in the array of defendants. Plaintiff is directed to supply the copy of plaint and documents for defendant no.11.

Date : 23/10/2023

(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 : S.M. Gaddam
- (b) Name of the Court : C.J.J.D., Mangalwedha, Dist. Solapur,
- (c) Order signed by P.O. on : 23/10/2023
- (d) Order uploaded on : 23/10/2023