

ORDER BELOW EXH. 33

The present application is filed by plaintiffs under Order VI Rule 17 and under Order I Rule 10 of the C.P.C. for amendment and impleading necessary parties to the suit.

2. Read the application. Also read the say filed by defendants. Perused record and proceeding. Today plaintiffs present but their advocate absent. Also defendant and his advocate remain absent when repeatedly called out.

3. The plaintiffs in their application submitted that, they wants to amend their suit as per the objection raised by the defendant about non-joinder of necessary parties. They also wants to implead defendant no. 2 to 4 and also wants to amend pleading in respect of their status with the deceased Shivaji Kokare. The defendant has strongly objected plaintiff's application by filing say at Exh.36. He submitted that, Shivaji had married with Vimal after divorce with plaintiff no.1. Proposed defendant no. 3 is legitimate child of the Shivaji and defendant no. 4 was his mother. The contentions of the application are false one and hence, application be rejected.

4. On perusal of record it appears that, plaintiffs have brought present suit for declaration that sale deed executed by Shivaji Ananda Kokare in favour of defendant of dt. 27/08/2015 is null and void and it is not binding on the rights of the plaintiffs. The plaintiffs have also sought for partition of the suit properties. The plaintiffs have filed present application as the objection raised by the defendant in his written statement at Exh. 22 about non-joinder of necessary parties and non-inclusion of all parties in common hotchpot. Now, plaintiffs want to implead proposed defendant no. 2 to 4 and wants to amend

their pleading. In the present matter, issues were framed on 04/03/2017, since then, suit is adjourned for hearing. During pendency of suit, plaintiffs have filed present application. The record shows that, plaintiffs have filed his affidavit of chief examination on 03/03/2018 which shows that, suit is commenced for hearing. But thereafter plaintiff's have filed present application. Till date plaintiff has not cross-examined by defendant. The plaintiffs by way of present application wants to implead necessary parties. In the present suit also they want to amend their pleading in respect of proposed defendants and wants to correct the gat number of suit property bearing Gat no. 224/2/1. Considering the nature of the suit and status of the parties, it is just and proper to permit the plaintiffs to amend their pleading and to implead additional defendants. However as the delay is not properly explained, it needs to impose heavy cost on the plaintiffs. Hence, the following order.

ORDER

- (1) Application is allowed subject to cost of Rs. 1,000/-. Out of which, Rs.500/- be paid to the defendant and remaining be credited to T.L.S.C, Mangalwedha.
- (2) Plaintiff to carry out amendment within 14 days from the date of this order and implead necessary parties i.e. defendant no. 2 to 4 in the suit. Also they submit amended copies of the plaint immediately. If, they fails to do so, order stands vacated.
- (3) Defendant is at liberty to file their additional written statement if any to the amendment on or before next date.
- (4) Cost in final cause.

Date : 07/09/2018

Sd/-xxx
(K.K. Mane)
Civil Judge Jr. Div., Mangalwedha,
Dist. Solapur.

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. & J.M.F.C., Mangalwedha, Dist. Solapur.

(c) Order signed by P.O. on : 07/09/2018

(d) Order uploaded on : 11/09/2018