

**RCS 368/2021 – ORDER BELOW EHX.15**  
Bharat Tukaram Gidde Vs. Malan Tukaram Gidde Etc.  
CNR NO. MHSO20-001680-2021

This application is filed by plaintiff as per Order 6 Rule 17 of Code of Civil Procedure.

2. In the short it is the contention of plaintiff that, present suit is filed by him for partition and separate possession. In the plaint he has contended that, partition dated 16/10/2002 and will dated 13/05/2021 is invalid and not binding on his share. In order to obtain relief regarding deeds it is necessary to make detail description regarding deeds. He prayed to add para no.3A, 4A and add pleading after para no.7, 8, 9A1 and A2 as mentioned in the application.

3. Defendant no.1 to 5 have objected application on the ground that, false application is filed. Defendants have filed their written statement. No reason is mentioned in the application. Plaintiff has claimed relief against deed dt.16/02/2002 which is not within limitation, as suit is not within limitation. Prayed to reject application.

4. Heard both sides. Considering the rival pleadings of both the parties following points arise for my determination to which I record my findings against each of them with the reasons stated below :

<b><u>Sr. No.</u></b>	<b><u>Issues</u></b>	<b><u>Findings</u></b>
1.	Whether application of plaintiff deserves to be granted?	Affirmative
2.	What Order ?	As per final order.

**REASONS**

**AS TO ISSUE NO.1 -**

5. Record shows that, suit is filed by plaintiff on 13/08/2021 for partition and separate possession against defendant no.1 to 12. In plaint

para no.3 and 5 reference of partition deed dated 16/10/2002 and will dated 13/05/2021 is made. As per their plaintiffs pleading alleged deeds are invalid and executed to avoid share of plaintiff in the suit property. But plaintiff has failed to make prayer regarding these deeds in prayer clause.

6. Upon perusal of WS of defendant no.1 to 5 it shows that they have admitted execution and existence of these deeds. Considering nature of suit and transactions executed in concern with suit property which are within the knowledge of plaintiff at the time of filing of the suit. Alleged deeds are executed in the year 2002 and on 13/05/2021. Present suit is filed on 13/05/2021. Also upon perusal of plaint it shows that, plaintiff is having knowledge of these deeds. After filing of written statement of defendant no.1 to 5 this application which is after 3 years of filing of suit. Considering aim and object of present suit and in order to finally decide rights of parties in my opinion it is necessary to allow application of plaintiff. But considering intensional delay caused by plaintiff it is necessary to impose certain cost of upon him while allowing his application. I answer Issue no.1 affirmative and for issue no.2 I pass following order -

### ORDER

1. Application of plaintiff at Exh.15 is allowed
2. Plaintiff is permitted to carry out prayed amendments after pay of cost of Rs.600/- (Six Hundred Rupees) to defendant no.1 to 6.
3. Plaintiff is directed to carry out amendment withing limitation of law and file on record amended copies of plaint.

Sangola.  
Date:- 16/10/2024

( Mrs. B. M. Potdar )  
Jt. Civil Judge Jr. Dn., Sangola.

## CERTIFICATE

I affirm that the contents of this PDF file Judgment/Order is same word to word as per the original Judgment / Order.

- (a) Name of Stenographer : Shri. S. S. Patne
- (b) Court : Mrs. B. M. Potdar,  
Jt. Civil Judge, J.D.&  
J.M.F.C.Sangola
- (c) Judgment /Order signed by P.O. on : 19/10/2024
- (d) Judgment /Order uploaded on : 19/10/2024

