

R.C.S. No. 140/2002

Order Below Exh.103

Perused application. Heard learned advocate for plaintiff. While learned advocate for defendant remained absent. Even learned advocate for defendant has not filed say to application under consideration. Hence, application proceeded without his say and argument.

02. Perusal of record shows that, defendant No. 3 died on 10.01.2016. Accordingly, the plaintiff moved application at Exh. 97 for bringing his legal heirs on record. As the application is within limitation, so my learned predecessor in office had allowed it and permitted the plaintiff to carry out necessary amendment in plaint Exh. 1. However, the plaintiff failed to carry out said amendment. So the plaintiff moved application Exh. 101 vide Order 6 Rule 18 of Code of Civil Procedure for carrying out amendment as per order passed by my learned predecessor in office at Exh. 97. The said application was also allowed with direction to carry out amendment forthwith. Even then, the plaintiff failed in it and application under consideration has been moved. It is contended that, due to oversight the plaintiff failed to carry out the amendment. Application is supported by an affidavit Exh. 104. Admittedly, the suit is for partition and separate possession and defendant No. 3 was necessary party to the suit. So his legal heirs are also necessary party to the suit.

03. The suit is of the year 2002 i.e. more than ten years old. It requires expeditious disposal. The defendants have not resisted the application by filing say. So to avoid multiplicity of litigation and to decide the matter on merit it will be proper to allow the application. However, due to non compliance of the order by the plaintiff for long time the matter is lingering on the board. So in view of this discussion following order will meet ends of justice.

ORDER

1. Application (Exh. 103) is hereby allowed subject to cost of Rs.500/-.
2. Cost be paid to legal aid.
3. The plaintiff is directed to carry out necessary amendment and submit amended copy forthwith.
4. Costs in cause.

Date:- 02.11.2017

[Sou. V. P. Gaikwad]
Jt. Civil Judge, Sr.Division, Karad.