

Order below Exh. 22

This application is filed by plaintiff for amendment and addition of party.

2) In brief the plaintiff submitted that, this suit filed by him of specific performance of contract alongwith injunction. Defendant agreed to sale his land Gat no. 69 admeasuring 0.82R assessment 2.62 paisa at mouje Bhadale Bk. Tal- Phaltan, Dist. Satara to this plaintiff. In respect of this transaction plaintiff given consideration amount i.e. Rs. One Lack and remaining amount is Rs. Fifteen Thousand decided to be given at the time of executing the sale deed. But defendant failed to execute the same, after frequent request of this plaintiff. Lastly, plaintiff compelled to file this suit. The plaintiff filed this application for amendment in the suit as during the pendency of the suit defendant sold the disputed land on dated 20/09/2012 to one Hemlata Balaso Suryawanshi. In consequence the plaintiff has to make amendment in the suit plaint as contains mentioned in para no. 2, 3, 4, 5, 6, 7 about date, amount and other necessary contention. The plaintiff also wants to amend the prayer clause in the plaint as per this application. It will necessary for the proper adjudication of the suit. It will cause no any prejudice to the defendant and not change the nature of the suit. Hence, prayed for allow this application.

3) On this application defendant filed his say vide Exh. 25 and opposed this application on one or another count. His submission is that, plaintiff has not filed any copy of alleged sale deed in support of his contention. If this amendment application is allow it will change the nature of the suit. Plaintiff has to pay the court fee if this amendment allow. The proposed amendment cause the prejudice to the right of defendant and there is no need of addition of party as prayed in this application. Contention in this application is false. Hence, it may be rejected.

4) Perused the record. Heard the learned Advocate of the both side at sufficient length of time. This suit is for specific performance of contract on the basis of 'Issar Pawati' executed between plaintiff and defendant. Though the plaintiff did not filed copy of alleged sale deed executed between defendant and Hemlata Suryawanshi, still the submission of plaintiff in this regard cannot be disbelieve. The plaintiff filed his affidavit in support of this Contention. The defendant has not shown any single fact which is going to cause prejudice to him. There is no any clarities about how the nature of the suit will be change. On the contrary the proposed amendment is necessary in the justice of equity and proper adjudication of this suit. If the amendment is denied, certainly it will affects the rights and claim of plaintiff. As such, for proper adjudication of this suit the addition of parties as prayed by the plaintiff is essential one. It will restrain the multiplication of suit. There is no any harm to the defendant if the proposed amendment is allowed nor any prejudice cause to defendant. He has ample opportunity to make consequence amendment in this regard. After considering all these aspects this application is liable to allow. Hence, I pass the following order.

ORDER

- 1) The application is allowed.
- 2) The plaintiff is hereby directed to make amendment in the plaint of suit as contained and prayed in this application within stipulated time as per law.
- 3) Parties to take note.

Phaltan
Dt:-05/08/2014

D.H.Dabhade
2nd Jt. C.J.J.D., Phaltan.