

**Regular Civil Suit No. 123/2012**  
**(Suresh Vs. Prabhakar)**

**Order below Exh.50**  
**(Passed on 13<sup>th</sup> July, 2023)**

This is an application filed by the plaintiff for amendment in the plaint under Order 6 Rule 17 of the Civil Procedure Code. It is contended by the plaintiff that the present suit has been filed for declaration and perpetual injunction. Initially, the name of Vice President of Krushna Valley Co-operative Credit Society was mentioned in the suit as defendant No.1. However, the Vice President namely Prabhakar Vamanrao Bhosale died and therefore, the plaint is required to be amended to that effect. Even, the plaintiff prayed for addition of proposed defendant No.6 i.e. President of Krushna Valley Co-operative Society Ltd. Mumbai. Further, he submitted that the proposed amendment is formal in nature, it will not change the nature of suit. Hence, it be allowed.

2. The present application has not been replied by the defendant even after availing sufficient opportunities and therefore, it is being disposed of as uncontested one.

3. Perused the application along with the entire record. Heard learned advocate of the plaintiff. The present suit has been filed for declaration in respect of the mortgage deed executed in favour of the defendant No.1 & 5. It is also prayed that the defendants be restrained by way of perpetual injunction from obstructing the peaceful possession of plaintiff over the suit property. The present suit is in respect of the mortgage deed. It is in between the plaintiff and the Krushna Valley Co-operative Credit Society and the Sahyadri

Nagari Co-operative Credit Society. Considering the nature of suit, the proposed amendment appears to be necessary. However, as per the submission of plaintiff, who is present in the Court today, that Shri. Prabhakar Waman Bhosale died on 17.06.2016 and he got certificate to that effect from Grampanchayat Bhuinj at that relevant time. Therefore, the point of due diligence, is also required to be considered while deciding this application. It is also pertinent to mention here that the issues have already been framed at Exh.48 and the trial has commenced. The present application has been filed on 10.03.2021. Therefore, it appears that the plaintiff was not due diligent in conducting the matter and in carrying out the necessary amendment. In such circumstances, the application is required to be allowed subject to payment of cost. Hence, the following order is passed.

**ORDER**

1. The application (Exh.50) is hereby allowed subject to payment of cost of Rs.500/-.
2. On payment of cost, as above, the plaintiff is permitted to carry out the proposed amendment in the plaint till next date.

[ Dictated and pronounced in open Court. ]

Date:-13/07/2023

(R. M. Bhende)  
2<sup>nd</sup> Jt. Civil Judge, Jr. Dn., Wai

**CERTIFICATE**

“ I certify that this Order uploaded is a true and correct copy of original signed Order”.

Order dictated on : 13.07.2023.

Order checked and signed on : 13.07.2023

Uploaded by : S. S. Kumbhar.  
Stenographer (Grade-III)

Uploaded on : 13.07.2023