

R.C.S. No.307/2017
Shrushti & ors., Vs. Popat &
Ors.

ORDER BELOW EXH.44

Read an application and the reply filed by the defendants. Perused the record. Heard the learned counsel for plaintiffs Adv. Shri. M.T. Rajmane and the learned counsel for defendant no. 1 and 2 Adv. Shri. A.S. Suryawanshi.

2. Plaintiffs filed this instant application under Order VI, Rule 17 of the Code of Civil Procedure and submitted that, plaintiffs, while presenting the suit, inserted the name of defendant no. 12 as of Shalan Bharat Pawar inadvertently. Now, plaintiffs want to insert the name of defendant no. 12 as of Shahaji Bharat Pawar instead of Shalan Bharat Pawar. According to plaintiffs, it is necessary to make such amendment in the plaint and prayed to allow an application.

3. On the contrary, defendants opposed to this application on the ground that, plaintiffs filed the suit in the year 2017. Plaintiffs filed amendment application in the year 2023. Plaintiffs have not mentioned any reason as to why plaintiffs have not filed such application since 2017 to 2023. Plaintiffs only want to prolong this matter and therefore, prayed to reject the application.

4. On perusal of record, it prima facie appears that, plaintiffs filed this suit for the declaration that, the sale deed dated 05.04.2017, is not binding upon plaintiffs. They also claimed for partition and separate possession of suit properties.

Defendant no. 1 and 2 filed their written statement at Exh. 23. This suit is proceeded exparte against defendant no. 4, 6, 10, 11, 13 to 18 and 20 vide order below Exh. 1 dated 07.06.2018. It is also proceeded exparte against defendant no. 5, 8, 9 and 7 vide order below Exh. 1 dated 07.12.2022 and 03.11.2023. Today the learned counsel for the plaintiff not pressed the temporary injunction application. It also appears that, the plaintiff filed amendment application before the commencement of trial. Therefore, no prejudice will be caused to defendants, if the amendment application is allowed. In my opinion, plaintiffs are entitled to make an amendment in plaint as prayed. Accordingly, I proceed to pass the following order,

ORDER

1. Application is allowed.
2. Plaintiffs are permitted to make an amendment in the plaint as claimed, otherwise this application shall automatically stands rejected.
3. Plaintiffs are further directed to file amendment copy of the plaint till next date.
4. Both the parties are directed to take note of it.

Vaduj
Date: 13.12.2023

(D.D. Fulzele)
Civil Judge Sr.Dn., Vaduj.