

Misc. Civil Appl. No. 127/2022
Sandesh & Ors Vs. Vinayak & Ors.

ORDER BELOW EXH.17

Read an application and the reply filed by the non-applicant. Perused the record. Heard the learned counsel for the applicant Adv. Shri. S.S. Satbhai and the learned counsel for the non-applicant Adv. Smt. M.P. Barsawade holding for Adv. Shri. P. K. Barsawade.

2. The applicant filed this instant application and submitted that, the applicant filed this contempt petition vide Rule 2A of Order XXXIX of the Code of Civil Procedure. The original petition is proceeded without reply of the non-applicant vide order below Exh. 1, dated 17.01.2023.

3. However, during the pendency this original petition, the measurement was taken place on 09.02.2023 and the court commissioner submitted report on 02.05.2023. As per the report of court commissioner, it is found that, the non-applicant encroached upon 46 square meter land of C.S. no. 259. The non-applicant also encroached upon 9 square meter land of C.S. no. 261. He also encroached in the lane which is in existence near C.S.No. 259 and 261. Therefore, the applicant want to add para no. 3A that, the non-applicant encroached upon 46 square meter land of C.S. no. 259 and thereafter, breached the injunction order. Therefore, the applicant want to make such amendment. Therefore, the applicant

prayed to allow to make such amendment.

4. The applicant filed this instant application before the commencement of evidence. Therefore, no any prejudice will be caused to the non-applicant, if he application is allowed. It is also necessary to grant permission to the application to make such amendment in the original petition. I found substance in the application. Accordingly, I proceed to pass the following the order:

ORDER

1. The application is allowed.
2. Applicant is permitted to make such amendment in the original petition as claimed till next date.
3. The applicant is further directed to file amended copy of original petition.
4. Both the parties are directed to take note of it.

Vaduj
Date:08.08.2023

(D.D. Fulzele)
Civil Judge Senior Division, Vaduj.