



**ORDER BELOW EXH. 225 IN R.C.S. NO. 83/2013  
(Sau.Darshna Dattatrya Thakur Vs. 1.Shri Mahendra  
Vasudev Patil and 18)**

The present application is filed by plaintiff to amend the additional issue No. 8 framed by my learned predecessor vide Exh. 87.

2] Learned advocate for defendant Nos. 3 to 6 and 10 to 19 Shri R.S. Mogare has filed say on the reverse of the application and has prayed that necessary order be passed in the interest of justice. Learned advocate for defendant No. 1 Shri R. S. Thakur has filed say at Exh. 226 and has prayed that application be rejected. Learned advocate for defendant No. 20 Shri R. R. Raut has filed say at Exh. 227 and has prayed that application be rejected.

3] It is the contention of plaintiff that initially issues were framed vide Exh. 87 and thereafter additional issues are framed on 03/12/2022. It is further contention of plaintiff that the additional issue No. 8 is framed as whether one-half area of total area admeasuring 28 guntha of gut No. 831,

hissa No. 6 is ancestral property of plaintiff. It is the contention of plaintiff that it is self-acquired property of father and it was not received by him from his forefathers and accordingly additional issue No. 8 needs to be amended.

4] According to defendant No. 1, there is no need to amend the additional issue No. 8 as prayed by the plaintiff. According to defendant No. 20 his objection to the present application is restricted to survey No. 831/6 and he is not concerned with the rest of the suit property. According to defendant No. 20, he has purchased survey No. 831/6 on 31/01/2014 vide registered sale deed from legal representatives of deceased Nathu Bhandari and 7/12 extracts stands in his name and he is in possession of it. Hence, according to defendant No. 20, plaintiff and defendant Nos. 1 to 19 are no way concerned with the suit property. According to defendant No. 20, land survey No. 831/6 is ancestral property of Ratnaprabha, Suchit, Chetan, Riya and legal representatives of deceased Vaishali. Hence, according to defendant No. 20, plaintiff and defendant Nos. 1 to 19 are not concerned with land survey No. 831/6 and therefore, he has strong objection to amend the additional issue No. 8 by introducing words “self-acquired property”.

5] Perused application and say. Heard learned advocate of both sides.

6] It appears from record that my learned predecessor has framed additional issue No. 8 on 03/12/2022 and burden with respect to suit property gut No. 831 hissa No. 6 is put on plaintiff. It appears from the record that plaintiff had filed application (Exh. 200) for carrying out amendment in the plaint and it came to be allowed on 15/01/2022 and accordingly additional issue No. 8 was framed. The averments in the amended plaint clearly discloses that it is the pleading of the plaintiff that one-half area out of total area of gut No. 831/6 was purchased by the father of the plaintiff vide sale deed dated 19/12/1953 from erstwhile owners namely Babu, Laxman and Hari. Therefore, there is no pleading that gut No. 831/6 is ancestral property. The objection raised by defendant No. 20 itself discloses that it is allegation made in the pleading on which parties will have to lead evidence. Hence, it is material proposition of fact affirmed by the plaintiff and denied by the defendants. Therefore, plaintiff is entitled to amend the additional issue No. 8 as prayed for.

7] Hence, in view of above discussion, I proceed to pass following order.

**ORDER**

(1) Application (Exh. 225 ) is allowed.

(2) The additional issue No. 8 framed vide Exh. 87 is amended as under :

"८. वादी सिध्द करते काय की, मौजे माहीम येथील गट नं. ८३१ हिस्सा नं. ६ क्षेत्र २८ गुंटे पैकी अर्धी मिळकत तिचे वडीलांची स्वकष्टार्जित मिळकत आहे ?"

Palghar  
Date : 01/07/2023

(Amit P. Kokare)  
Civil Judge Senior Division  
Palghar