

R.C.S no.12/2015

Tukaram Vs.Siddharath and others

ORDER BELOW EXH.48

The plaintiff has filed the present application vide order 1 rule 10 of Code of Civil Procedure for addition of party and vide order 6 rule 17 of Code of Civil Procedure for amendment.

2. Perused the application and say of defendant no.2. Defendant no.1 has not filed say. Heard advocate Shri.Thute for the plaintiff and Shri.Jamunkar for defendant no.2. Advocate of defendant no.1 remained absent for argument.

3. The plaintiff submitted that, defendant no.3 sold the suit property to Sanjay Bhaskar Nakade on 02.02.2019 i.e. during pendency of the present suit. The said transfer is illegal and not binding on the plaintiff. Sanjay Nakade is necessary party and required to be added as defendant no.4 in the present suit. The plaintiff also sought amendment in the plaint in respect of the same. Hence, this application.

4. Defendant no.2 has not objected the application of the plaintiff.

5. The present suit is filed on 20.04.2015 for declaration, cancellation of power of attorney dated 17.07.2007 and permanent injunction in respect of suit

R.C.S no.12/2015

Tukaram Vs.Siddharath and others

property. As per contention of the plaintiff during pendency of the present suit, defendant no.3 has sold suit property to Sanjay Nakade on 02.02.2019 by registered sale deed.

6. The plaintiff alongwith list of document at Exh.49-A has filed certified copy of sale deed dated 02.02.2019. It shows that, Sanjay Nakade has purchased the survey no.92 admeasuring about 1.13 H.R situated at Mouza Khairgaon Tal.Samudraur, District Wardha from Govinda Wasudev Sonavane. The sale deed executed on 02.02.2019 and it is registered. Plaintiff shows that, number of the suit property as 92 admeasuring about 1.13 H.R. situated at Mouza Khairgaon Tal.Samudrapur District Wardha. Govinda Vasudev Sonavane who sold survey no.92 to Sanjay Nakade, is none but defendant no.3 in the present suit.

7. It is clear that, defendant no.3 has sold the suit property during pendency of present suit to Sanjay Nakade. Therefore, Sanjay Nakade is necessary party in the present suit. To avoid multiplicity of the proceeding, it is necessary to add Sanjay Nakade as defendant no.4 in the present suit. Furthermore, the amendment which the plaintiff has sought does not change the nature of suit. The proposed amendment is necessary to decide the rights and liabilities of the parties of the suit. Hence, I passed the following order,

R.C.S no.12/2015

Tukaram Vs.Siddharath and others

ORDER

- 1.** The application is allowed.
- 2.** Sanjay Bhashkar Nakade R/o. Sonegaon, post Ashta Tah. Umred, Dist. Nagpur be added as defendant no.4.
- 3.** Issue suit summons to the defendant no.4.
- 4.** The plaintiff shall file copy of plaint for providing to defendant no.4.
- 5.** The plaintiff to make necessary amendment till next date.

Samudrapur
Dt.13.11.2019

Jt. Civil Judge, Jr. Dn.,
Samudrapur