



R.C.S. NO. 23/2022

Shri Tukaram Ingole (since deceased) through his LRs Kisan Ingole Vs. Nimba Ingole & Ors.

ORDER BELOW EXH.17

(CNR No. MHWS02000089-2022)

1. The plaintiff has filed this application under Order 6 Rule 17 r/w. Order 1 Rule 10 (2) of the Civil Procedure Code, 1908 (for short 'C.P.C.') 1908 for amendment of the plaint.

2. **Contents of this application, in nutshell, are as *infra* :-**

The plaintiff has filed the present suit for partition & separate possession of his share in suit lands, more particularly described in para No.1 of the plaint. It is specific contention of the plaintiff that defendant No.8 Nandabai has contracted second marriage after obtaining divorce from the husband of her first marriage. It is, thus, contention of the plaintiff that the present name of defendant No.8 is Nanda Madan Waghmare. The plaintiff has, therefore, prayed that he be permitted to substitute the name of defendant No.8 as Nanda Madan Waghmare in lieu of Nandabai Madhukar Labde.

3. It is further contention of the plaintiff that Collector, Washim is necessary party in the present suit & therefore, he be permitted to implead him as defendant No.13. With this, the plaintiff has prayed that this application be allowed.

4. Defendant No.3 has filed his say on overleaf of this

application. He has stated that the plaintiff has not mentioned in this application the dated of second marriage of defendant No.8. According to him, if marriage of defendant No.8 was solemnized before institution of the suit, it can be said that there is gross negligence on the part of the plaintiff in filing the present application. With this, defendant No.3 has prayed that this application being devoid merits is liable to be rejected.

5. Other defendants have not filed their say to this application & therefore, this application against them proceeded without their say.

6. I have heard Ld. Advocate Mr.Kamble for the plaintiff & Ld. Advocate Mr. Jumde for defendant No.8 at considerable length, and have gone through record of the suit.

7. Before proceeding any further, I would like to mention that the proviso appended to Order 6 Rule 17 of the C.P.C. virtually prevents an application for amendment of pleadings from being allowed after commencement of the trial, unless the Court is satisfied that in spite of due diligence, the party could not have raised the matter before commencement of the trial.

8. Upon perusal of the record, it is seen that trial of the present suit has not yet been commenced. Besides thus, I would like to mention that it is well settled principle of the law that while deciding an application for amendment of pleadings, the Court is supposed to take liberal approach, and it is not supposed to go into merits of the proposed amendment.

9. In my considered view, the proposed amendment is bona-fide, it will not change nature of the suit, and however, it is necessary to determine real question in controversy between parties to the suit. Furthermore, I would like to mention that if this application is allowed, no prejudice will be caused to defendant No.8 or other defendants. Resultantly, I have no impediment to hold that this application deserves to be allowed. Hence, I proceed to pass following order -

ORDER

- 1) Application Exh.17 is allowed.
- 2) The plaintiff shall carry out the necessary amendment, more particularly described in an application Exh.17 itself, till next date; and shall supply copies of the amended plaint as early as possible.
- 3) No order as to costs.
- 4) Parties to the suit shall take note of this order.

Washim.
Date - 18/06/2022.

(**S.S.Ubale**)
3rd Jt. Civil Judge,S.D.,
Washim.

CERTIFICATE

I affirm that the contents of this P.D.F. file Order are same, word to word,
as per the original Order

Name of the Stenographer	:	P.P.Sonune Stenographer (Grade-III)
Name of the Court	:	Shri.S.S. Ubale, 3 rd Jt. C.J.S.D.Washim
Date	:	18.06.2022
Order signed by the presiding officer on	:	18.06.2022
Order uploaded on	:	18.06.2022