

ORDER BELOW EXHIBIT 37 IN RCS NO. 15/2022.

The plaintiff filed instant application under order 06 Rule 17 of C.P.C. for carrying out amendments in the plaint.

2. The present suit is filed for declaration and injunction. However, instant application came to be filed contending that the plaintiff is the legal heir of deceased Bhimbai Sonu Kumare and the deceased Bhimbai had filed RCS No. 51/2008 against deceased Bhimrao. However, there is no impact of the litigation on the personal relation of the deceased Bhimbai with the present plaintiff. The deceased Bhimbai had love and affection towards the plaintiff and the plaintiff was also taking care of deceased Bhimbai during her livelihood. Therefore, the plaintiff has taken care of deceased Bhimbai till her death. The plaintiff contended that present amendment is necessary in the plaint in order to avoid multiplicity of proceeding.

3. Per contra Ld. Advocate for defendant opposed the said amendment by filing this say. It is the contention of the defendant that the present matter is posted for the evidence of the plaintiff and the plaintiff has deliberately filed the present application at the belated stage only to fill up the lacuna.

4. The points for determination along with finding and the reasons thereon are as under-

POINTS

FINDINGS

- 1) Whether the proposed amendment is necessary
for the purpose of determining the real questions in controversy between the parties? Yes
- 2) What Order? Application
allowed

REASONS

AS TO POINT NO. 1 AND 2

5. Read the application. Also perused the plaint. Heard Ld. Advocate for the plaintiff.

6. The Ld. Advocate for plaintiff/applicant submitted that, no prejudice will be caused to other side if application is allowed and it would not change the nature of suit.

7. I have gone through the record. It appears that, plaintiff has instituted suit against the defendant for declaration and injunction. It is the specific contention of the plaintiff that the plaintiff is the legal heir of deceased Bhutibai Sonu Kumare and the deceased Bhutibai had filed RCS No. 51/2008 against deceased Bhimrao. However, there is no impact of the said litigation on the personal relation of the deceased Bhimbai with the present plaintiff. The deceased Bhimbai had love and affection towards the plaintiff and the plaintiff was also taking care of deceased Bhimbai during her livelihood. Therefore, the deceased Bhimbai was residing at the mercy of the plaintiff till her death. Admittedly, the issues are framed in the instant matter and the matter is posted for the evidence of the plaintiff. The defendant has not yet cross examined the plaintiff. Therefore, even if the present amendment is allowed, the defendant has ample opportunity to cross examine the

plaintiff on the said aspect. The proposed amendment would not change the nature of suit and no prejudice would be caused to the defendant, if the application is allowed. Therefore, proposed amendment is necessary in order to decide the real controversy between the parties and in order to avoid multiplicity of proceeding. Hence, for the reasons recorded as above, I answer Point No. 1 in affirmative and in answer to point No. 2, I pass the following order;

ORDER

1. The application is allowed.
2. The plaintiff to carry out the proposed amendment on or before next date.

Zari Jamni
Date :4/11/2024

(S. S. Kale)
Civil Judge,Jr. Div., Zari Jamni