

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 197 OF 2017

IN

FIRST APPEAL NO. 286 OF 2008

SHRI. BALKRISHNA INSULKAR AND
ANR.,

... Applicants

Versus

SMT. CHITRA BADRINARAYAN ALIAS B.
CHITRA AND 17 ORS.,

... Respondents

Mr. Pranay A Kamat, Advocate for the Applicants.
Ms. A. Kaisukar, Advocate for Respondents no. 1 and 2.
Ms. S. Linhares, Additional Government Advocate, for
Respondent no. 15.
Ms. R. Kantak, Advocate for Respondent no. 18.

Coram:- F. M. REIS, J.

Date:- 7th March, 2017

P.C.

Heard Mr. P. A. Kamat, the learned Counsel appearing for the Applicants, Ms. A. Kaisukar, learned Counsel appearing for the Respondents no. 1 and 2, Ms. S. Linhares, learned Additional Government Advocate appearing for the Respondent no. 15 and Ms. R. Kantak, learned Counsel appearing for the Respondent no. 18.

2. This is an application for amendment of the Plaint as well as the Appeal Memo inter alia, to introduce subsequent events with regard to the alleged Gift Deed executed by the original Respondents no. 1 and 2 in favour of Respondent no. 18 as well as to dispute the attempt of the Respondents to initiate mutation

proceedings in connection with the subject property. The learned Counsel appearing for the Respondent no. 18 pointed out that the subsequent events are irrelevant to decide the material in controversy as any transfer during the pendency of the suit is protected by Section 52 of the Transfer of Property Act. Mr. P. A. Kamat, the learned Counsel appearing for the Applicant pointed out that the amendment sought is to put on record the subsequent events referred to are illegal and not binding on the applicant.

3. I have considered the submissions of the learned Counsel appearing for the respective parties. The pleas sought to be incorporated are matters which are not necessary to decide the matter in controversy. As rightly pointed out by the learned Counsel appearing for the Respondent no. 18, the alleged transfers during the pendency of the suit are hit by Section 52 of the Transfer of Property Act. In such circumstances, as the proposed amendments are not necessary to decide the matter in controversies, the question of granting leave at this stage to amend the Plaint would not at all be justified. The application is accordingly rejected.

4. Application is accordingly disposed of.

F. M. REIS, J.

msr