

-:: Order below the application of the plaintiffs to join proposed parties to the suit vide Ex.45 ::-

1. The application is filed by Ld. Advocated Mr.B.B.Nakum appeared for the plaintiffs to join proposed parties to the suit as the suit land has been sold to third party based on a will. In deciding the application for joining proposed parties to the suit, the court must consider the principles of necessary and proper parties under the relevant provisions of the Civil Procedure Code (CPC), particularly Order I Rule 10(2).
2. Ld. Advocate Mr.B.B.Nakum argues that being heirs, they have a legitimate interest in the suit property, which was initially in their mother's name. He claims that the will, through which the property, was bequeathed to Manish Kantilal Chandarana and his wife Shital, is questionable or improperly executed. Even these people executed the sale deed of the suit land in favor of third party, i.e., Mr.Rambhai Maldebhai Chavda. He argues that joining these individuals will allow the court to adjudicate all relevant claims and avoid multiplicity of proceedings. Since Rambhai now holds a sale deed for the suit property, any judgment in the current suit could impact his rights. His inclusion as a party would ensure that all stakeholders are heard and bound by the court's judgment.
3. Ld. Advocate Mr.N.J.Ghediya, appeared for the proposed parties, submitted his written statements vide Ex.50 & Ex.51 for the proposed parties and vehemently submitted that Manishbhai, Shitalben, and Rambhai are not necessary parties to the dispute

as the suit only concerns the plaintiffs' claim to the property and not the validity of the will. He asserts that the will was lawfully executed and that the plaintiffs' application is simply an attempt to harass and involve them in unnecessary litigation. Since the original relief sought was for a declaration and injunction against the defendants, adding the new parties would complicate the suit unnecessarily without contributing to the core issue.

4. Under Order I Rule 10(2) of the CPC, the court has the power to add a party if it finds that the party is either a necessary or a proper party. A necessary party is one whose presence is essential for a complete and effective adjudication of the dispute. In **Ramesh Hirachand Kundanmal v. Municipal Corporation of Greater Bombay, (1992)** Hon'ble Supreme Court held that a necessary party is one without whom no effective order can be made. A proper party is one whose presence is necessary for the court to adjudicate the issues at hand completely and conclusively. In **Mumbai International Airport Pvt. Ltd. v. Regency Convention Centre & Hotels Pvt. Ltd., (2010)**, Hon'ble Supreme Court observed that adding a proper party helps the court avoid multiple proceedings and contradictory decisions.
5. Doctrine of Lis Pendens (Section 52 of the Transfer of Property Act, 1882): Since the property was sold to Rambhai Chavda during the pendency of the suit, the doctrine of lis pendens could apply, indicating that Rambhai's rights are subject to the outcome of the present litigation.

6. Based on the principles of necessary and proper parties, Manishbhai and Shitalben should be added as parties since the dispute over the will directly affects their rights to the property. Furthermore, Rambhai as the current owner of the suit property under the sale deed should also be joined as a defendant to ensure that any order or decree is binding on all stakeholders. Including them will allow a comprehensive resolution of issues, ensuring that all interested parties' rights are adequately protected. Hence, the following order has been passed in the huge interest of justice:

∴ Order ∴

1. The plaintiffs' application is hereby granted. Proposed parties viz., (1) Manish Kantilal Chandarana, (2) Shital Manishbhai Chandaran, and (3) Rambhai Maldebhai Chavda shall be added as defendants no.7 to no.9 to this suit under Order I Rule 10(2) of the CPC.
2. Parties to bear their own costs.
3. The plaintiffs are ordered to produce amended plaint in stipulated time.

Pronounced in open Court on November 22, 2024.

Place: Kalyanpur.

Date: 22/11/2024

**(Alpa Prabhudas Kadiwar)
Principal Civil Judge,
Kalyanpur.
(Judge Code: GJ-01554)**

**A. P. Kadiwar
Principal Civil Judge,
Kalyanpur.**