

**Order Below Ex.21 and Ex.25 in Regular Civil Suit No.246/2015.**

Read the application.

Read the objection filed.

Peruse the provisions of law in relation.

1. Power of attorney of plaintiff applied vide Ex.21 that the suit filed by the wife of deceased person and in case of raising the question of non joinder of other heirs of deceased, he applied to join the two sons of the deceased as the heirs of deceased Tejmalji Mamuji Hithi Jadeja. By the application of Ex.25, he applied to join three daughters of deceased and alleged the disclosure of the name of daughters as per the order of Court passed under Ex.21.

2. Learned advocate of defendants side filed objections of both the application stating that suit does not filed as the heirs of deceased but the suit filed in personal capacity by the plaintiff. He further raised the issue of filling of application of Ex.21 after five years from the date of filling of the suit. He further raised the filling of subsequent application of the joining of parties after seven years from the date of filling of this suit and alleged the change of nature of the suit and asked the rejection of the application.

3. On perusal of both the applications with the suit, it is cleared that suit filed by the plaintiff in personal capacity stating that his husband executed the document of mortgage. The notice issued to defendant on Dtd.10/14/2014 by the plaintiff and her two sons i.e. persons to whom she

joined as the party under Ex.21. Thus, court has passed the order under Ex.21 to declare all the heirs of deceased, hence, the application of Ex.25 is filed. Now the defendant side raised the issue of delay joinder. But it can not be considered as the second application was filed under the order of this court and first application filed after the raising the defence of defendant side. It is also necessary to note here that defendant filed counter claim vide Ex.11 and he also raised the issue of purchase of the suit land from three person and one of it is the person alleged to join as the plaintiff No.2 vide Ex.21. Thus, all the parties are necessary parties for the proper adjudication of the suit and without joining of them, even counter claim of defendant is also suffered, resultant, following order is required to pass.

**Order**

Both the applications are allowed.

Plaintiff is ordered to make necessary amendment immediately and also ordered to file amended plaint within 7 days from the date of this order.

A copy of this order to be kept under both the applications.

No order as to costs.

Pronounce on today on this 19<sup>th</sup> day of December 2022.

Place – Bhuj-Kutch

Date – 19/12/2022.

(Shilpa Kanabar)  
Principal Sr. Civil Judge  
Bhuj-Kutch – Code – GJ00814

પ્રોસીડીંગ

૧૯/૧૨/૨૦૨૨

આંક - ૨૧ અને ૨૫ હેઠળ હુકમ કર્યો.

આંક - ૨૧ અને ૨૫ મંજૂર કરી.

તે મુજબ સુધારો કરવો.

કામ સુધારેલ ઠાવા અરજી રજુ થવા.

૨૬/૧૨/૨૦૨૨

(Shilpa Kanabar)

Principal Sr. Civil Judge

Bhuj – Code – GJ00814