

ORDER BELOW EX-20**AN APPLICATION UNDER ORDER-I, RULE-10 OF THE CPC.****FACTS OF APPLICATION IN BRIEF.**

1) The present application has been filed by the applicant (Original plaintiff) under Order-I Rule-10 of CPC to join suggested party as necessary party in the present suit.

2) The brief facts of the application is such that the present suit has been filed by the original plaintiff in regard to the forcibly obtained registered sale deed from the plaintiff in favor of defendant No.1, dated 10/06/2022 without our consent or without paying any sale consideration or directly obtaining possession of the said land.

3) It is the further say of the applicant that the defendant no.1 of this suit, taking wrong advantage of the fact that his name is mentioned in the revenue record of the said land, has made sale deed in favor of (1) Bhavik Gopalbhai Surani (2) Mit Jagdishbhai Chhaniyara (3) Dharmadip Rameshbhai Oganja (4) Kamleshbhai Ravjibhai Patel vide No.154 Dated 08/01/2025. The sale deed has been registered and on the basis of the same, the names of the notified parties have been entered in the revenue records of the claimed land in Gam Namuna No.6 with entry no.6328 dated

08/01/2025 and certified. This sale deed has come to the notice of the plaintiff while examining the revenue records at present.

REPLY IN BRIEF.

5) The Ld. Advcoate for the defendant has made endorsement in the application that he has no objection to join the (1) Bhavik Gopalbhai Surani (2) Mit Jagdishbhai Chhaniyara (3) Dharmadip Rameshbhai Oganja (4) Kamleshbhai Ravjibhai Patel as a necessary parties.

EVALUATION:

6) Heard the learned Advocate for the respective parties and perused the case record and considered the provision of C.P.C. Order-I Rule-10.

7) Order-1 Rule-10 of Code of Civil Procedure (herein after referred as C.P.C.,) enables the court to add any person as party at any stage of the proceedings, if the person whose presence before the court is necessary in order to enable the court effectively and completely adjudicate upon and settle all the questions involved in the suit. Avoidance of multiplicity of proceedings is also one of the objects of the said provision.

8) It is well settled principle of law that basically, it is for the

plaintiff in a suit to identify the parties against whom he has any grievance and to implead them as defendants in the suit filed for necessary relief. He cannot be compelled to face litigation with the persons against whom he has no grievance. Where, however, any third party is likely to suffer any grievance, on account of the outcome of the suit, he shall be entitled to get himself impleaded. The question as to whether an individual is a proper or necessary party to a suit, would depend upon the nature of relief claimed in the suit and the right or interest projected by the persons, who propose to get themselves impleaded. No hard and fast rule can be weighed, that would cover a possible situation in this regard.

9) Necessary and proper parties to the suit:

There are two types of persons who may be added as party to the suit. (1) Person who is a necessary party i.e., in the absence of whom relief claimed in the suit cannot be granted. In other words, it means that for the grant of relief claimed in a suit, a person who ought to have joined must be added, (2) the second class of persons consists of those who are proper parties i.e., whose presence may be necessary with a view to fully adjudicate upon the matters involved in the suit.

In ***Kasturi vs., Uyyamperumal and others reported in (2005) 6 SCC 733***, the Hon'ble Apex Court observed that "it is now clear that two tests are to be satisfied for determining the question who is a necessary party. Tests are - (1) there must be a right to some relief against such party in respect of the controversies involved in the proceedings (2) no effective decree can be passed in the absence of such party.

10) Basic Principles for Impleadment of third parties under the provisions of Order 1 Rule 10 C.P.C., in the light of various Judicial pronouncements:

In ***Razia Begum Vs. Anwar Begum reported in AIR 1958 SC 886***, the Hon'ble Apex court laid down the following broad principles:-

"(1) That the question of addition of parties under R.10 of O.1 of the Code of Civil Procedure, is generally not one of initial jurisdiction of the Court, but of a judicial discretion which has to be exercised in view of all the facts and circumstances of a particular case; but in some cases, it may raise controversies as to the power of the court, in contradistinction to its inherent jurisdiction, or, in other words, of jurisdiction in the limited sense in which it is used in S. 115 of the Code;

(2) That in a suit relating to property, in order that a person may be added as a party, he should have a direct interest as distinguished from a commercial interest, in the subject-

matter of the litigation;

(3) Where the subject-matter of a litigation, is a declaration as regards status or a legal character, the rule of present or direct interest may be relaxed in a suitable case where the court is of the opinion that by adding that party, it would be in a better position effectually and completely to adjudicate upon the controversy;

(4) The cases contemplated in the last proposition, have to be determined in accordance with the statutory provisions of Ss.42 and 43 of the Specific Relief Act;

(5) In cases covered by those statutory provisions, the court is not bound to grant the declaration prayed for, on a mere admission of the claim by the defendant, if the court has reasons to insist upon a clear proof apart from the admission;

(6) The result of a declaratory decree on the question of status, such as in controversy in the instant case, affects not only the parties actually before the Court, but generations to come, and in view of that consideration, the rule of 'present interest', as evolved by case law relating to disputes about property does not apply with full force; and,

(7) The rule laid down in S. 43 of the Specific Relief Act, is not exactly a rule of res judicata."

11) Computation of Limitation when a party is added:

Section 21 of Limitation Act provides that wherever on institution of a suit a new plaintiff or defendant is substituted or

added, the suit shall, as regard him, be deemed to have been instituted when he is so made a party. However, if court is satisfied that omission to include a new plaintiff or defendant was due to mistake made in good faith, it may direct that the suit as regards to such plaintiff or defendant shall be deemed to have been instituted on any earlier date.

CONCLUSION.

12) From the above discussion, it can be concluded that the general rule is that the plaintiff is master of his suit. He is dominus litus. He cannot be compelled to fight against a person against whom he does not wish to fight and against whom he does not claim any relief. It is discretionary to grant a relief under Order-1 Rule-10 of the C.P.C., In exercising the direction the court will invariably take into account the wishes of the plaintiff before adding a third person as a defendant to his suit. Keeping in view of the above discussed basic principles, where the court finds that addition of the new defendant is absolutely necessary to enable it to adjudicate effectively and completely the matter in controversy between the parties, will it add a person as a defendant even without the consent of the plaintiff. During the pendency of this suit, the defendant no.1 has executed sale deed in the favor of the proposed parties namely (1) Bhavik Gopalbhai Surani (2) Mit Jagdishbhai Chhaniyara (3) Dharmadip Rameshbhai Oganja (4) Kamleshbhai Ravjibhai Patel. To avoid the

multiplicity of the proceedings it is necessary to add the proposed parties.

13) As we are deciding an application filed under Order-I Rule-10 and as a crux of factual and legal discussion made above and in the larger interest of justice, I pass following order:

: O R D E R :

- 1)** The application is hereby granted.
- 2)** The present applicants are hereby joined as defendants nos. 4, 5, 6 and 7 respectively in the suit and their name be added in the suit and in application below Exh.5 as under:

(i) Bhavik Gopalbhai Surani

Add- B/201, flora 158/B, Near Krishna school,
Ravapar, Ta.Dist.Morbi.

(ii) Mit Jagdishbhai Chhaniyara

Add-Nichi Mandal, Ta.Dist.Morbi.

(iii) Dharmadip Rameshbhai Oganja

Add-Rasangpar, Ta.Maliya, Dist.Morbi.

(iv) Kamleshbhai Ravjibhai Patel

Add-Nichi Mandal, Ta.Dist.Morbi.

- 3) The suit be amended accordingly.
- 4) Cost shall follow the suit cost.

Pronounced in the open Court today, on this 15th Day of January, 2026.

Date : 15/01/2026
Halvad

(Nimisha Gangarambai Surati)
Principal Senior Civil Judge,
Dahod. (GJ-00711)