

ORDER ON IA No.9 U/o.1 Rule 10 (2)
R/w. Sec.151 of CPC.

The plaintiff has filed this application U/o. 1 Rule 10 (2) of CPC with a prayer to implead the proposed defendant as defendant No.10 in the suit by contending in the affidavit that, the plaintiff has filed this suit for partition and separate possession in respect of suit properties, during the pendency of suit, defendant No.7 has executed registered sale deed bearing No.1713/2020-21 dated 19.01.2021 in favour of proposed defendant in respect suit schedule A property SL No.2 Sy No.114/1 to the extent of 34 guntas, the alleged sale deed is null and void and not binding on the share of plaintiff, therefore the proposed defendant No.10 is necessary and proper party to the proceedings.

The defendants No.2 & 6 filed their objections contending that, plaintiff was fully aware of selling of Sy No.114/1 to the extent of 34 guntas in favour of proposed defendant, intentionally plaintiff has waited and filed this application, hence prayed to reject the application.

Admittedly the sold out property is one of the suit property as per plaint schedule, this suit is filed in the year 2020, the alleged sale deed is executed on 19.01.2021 during pendency of suit. This is not a suit for declaration and injunction. It is for partition and separate possession. So the alienation of suit property Sy No.114/1 to the extent of 34 guntas by the defendant No.7 in favour of defendant No.10 does not bind the share of plaintiff. Moreover the plaintiff has not produced the said sale deed. However, suit

will be decided on merits only. In view of the same, the application is hereby rejected.

For orders on IA No.13.

Kept by:

Addl Civil Judge & JMFC
Shahapur