



Order below Exh.31 in Spl. Civil Suit No.37/2020
(C.N.R. No. MHAH05-001172-2020)

By this application, the third party applicant Rajdhar Guru Indubai Mahanubhav (Aaradhye) R/o – Walgaon, Tal/Dist. Amravati is contending that, the plaintiff has filed this suit for seeking relief of declaration and perpetual injunction. The subject matter of the suit is 5R. land out of City Survey No.52 situated in Ward No.7 of Shrirampur City. The suit property belongs to Mahanubhav Ashram. The defendants are having no concern with it. The defendants are having no legal titled or possession of the same. There is construction in the suit property. However, by suppressing this fact, by showing the property as open space, the defendants in collusion with each other, have executed a sale-deed. The third party applicant is senior-most follower of deceased Indubai Gurupantbaba Mahanubhav (Aaradhe). As per the custom of the Mahanubhav Panth, the senior most follower becomes the trustee of the property of Mahanubhav Ashram. As such, the third party applicant is entitled to protect the property standing in the name of deceased Indubai Gurupantbaba (Aaradhe). Accordingly, he has prayed for impleading him as defendant No.4 in this suit.

2. The plaintiff has placed his no objection to add the third party applicant as a defendant in this matter.

3. The defendant Nos.1 to 3 by filing their say at Exh.35, resisted the application. As per their contention, the third party applicant is not related or having any concern with the suit property. They have further contended that, no documentary evidence is filed by the third party applicant in order to show his concern with the suit property. The defendant No.3 has purchased the suit property and is in lawful possession of the same. Even, there is no evidence to show that, the third party applicant is a senior-most follower of deceased Indubai Gurupantbaba Mahanubhav. The third party applicant is having no *locus-standi* to file this application nor he is a necessary party to this suit. On all these counts, they have prayed for rejection of the application.

4. Heard learned advocate appearing on behalf of third party applicant and the learned advocates of plaintiff and defendants. Perused record. Perusal of record shows that, the plaintiff has filed this suit for seeking declaration and perpetual injunction, by contending that, the suit property belongs to Chakradhar Mahanubhav Ashram. It is also contention of the plaintiff that, the defendant Nos.1 & 2 without any right, title or concern, have executed sale-deed of the suit property in favour of defendant No.3, which is liable to be declared as null and void. It is also pertinent to note that, the plaintiff has tried to contend about the custom followed by said Ashram and on the basis of said custom, it is claiming rights in respect of the suit property.

5. It is also significant to note that, even the third party applicant has tried to contend about the custom followed by the said Ashram. Though, the defendants have denied about the said custom, it becomes clear that, it can be decided only after the parties have adduced their evidence regarding the custom followed by them. Therefore, it would not be just and proper to draw any direct inference or conclusion regarding the custom followed by the parties, at this juncture.

6. However, while looking at the contentions raised by the plaintiff as well as third party applicant, at this juncture, the only inference that can be drawn is that, in order to adjudicate the issues relating to the custom followed by the parties and rights of the parties involved therein, are required to be decided after giving opportunity to all concerned to adduce their evidence. In such circumstances, the presence of the third party applicant also appears to be necessary in this suit in order to adjudicate all the issues arising in this matter completely and finally. Hence, following order is passed.

ORDER

1. The application is allowed and the plaintiff is hereby directed to add the third party applicant as defendant No.4 in this suit by carrying out necessary amendment within 7 days from the date of this order and file amended copy of plaint forthwith.

2. In the event if, the plaintiff fails to add third party applicant within the given time, the third applicant is at liberty to carry out the necessary amendment by impleading himself as defendant No.4 in this suit and comply accordingly, forthwith.
3. After addition of the third party applicant as defendant No.4, he to appear forthwith and file his written statement, if any, without seeking further extension of time.

Date : 14/01/2022.

**(D.P.Kasat)
Civil Judge, Senior Division
Shrirampur.**

CERTIFICATE

I affirm that, the contents of this PDF file order are same word to word, as per the original.

Name of the Court : Civil Court, Senior Division,
Shrirampur, Dist.Ahmednagar.

Name of Stenographer : Ajinath A. Padalkar.

Date of Order : 14.01.2022.