

**ORDER BELOW EXH. 34 IN R.C.S NO.04/2020**

Present application has been filed by the applicants under Order I Rule 10 and Order VI Rule 17 of Code of Civil Procedure, 1908, to carry amendment in the plaint for the purpose of impleading Maya Ravindar Jadhav, Chaya Kishor Gayakwad and Rekha Santosh Mrudunge as party to the suit and doing necessary amendment in that regard.

**02.** The Learned Advocate for the applicants urged that the present suit has instituted for Declaration, Partition and perpetual Injunction in respect of the ancestral property. The property bearing Gat No. 352, situated at Village Devdaithan, Taluka Jamkhed, District Ahmednagar, is the ancestral property of the applicants. applicants have an undivided share in the said property by virtue of succession. It is submitted that the suit property is the ancestral property of plaintiffs, defendants and applicants because applicants are the step-siblings of the plaintiff and the real sisters of Defendant No.1. Applicants have not been made parties to the present suit and deliberately kept in the dark and sidelined, although they are necessary parties to the adjudication of this matter.

**03.** It is further submitted that if applicants are not impleaded as parties and the matter is decided behind their back, their lawful share in the ancestral property will be lost. Consequently it will cause them irreparable and substantial loss. Therefore, it is necessary and just that applicants be added as parties to the present suit so that they can put forth their contentions. Hence prayed to allow the present

application.

**04.** Per contra the Learned Advocate for the plaintiffs urged that in the present case, Defendant No.01 herself has no legal right, title, or interest in the suit property. Plaintiffs have made party to Defendant No. 01 only on the basis of having illegally obtained an heirship certificate and inserting her name in the suit property records. It is further submitted that since the Defendant No.01 is not legally connected with the suit property, the so-called “sisters” of Defendant No.01, who are the applicants herein, also have no concern, right, or interest in the suit property. Hence, the applicants cannot be considered as necessary or proper parties to the present suit. The applicants have no relation to or concern with the suit property. Furthermore, the applicants are neither necessary nor proper parties for the adjudication of the present dispute. Therefore, prayed for rejection of the present application.

**05.** Perused the application and other material on record. Heard, learned Advocates for both parties and considered their submissions.

**06.** Before going to the facts of the present case, it is necessary to go through the legal position. Order I, Rule 10 of the Code of Civil Procedure, 1908 provides that:-

*“a Court may, at any stage of the proceedings, either upon or even without any application, and on such terms as may appear to it be just, direct that any of the following persons may be added as a party:- (1) any person who ought to have been joined as plaintiff or defendant, but not added; or (2) any person whose presence before the Court may be necessary in order to*

*enable the Court to effectively and completely adjudicate upon and settle the question involved in the suit. In short, the Court has discretion to add as a party, any person who is found to be a necessary party or proper party.”*

Thus, it is a settled law that it is open to the Court to add any such person as necessary party in the suit to enable the Court to effectively adjudicate the question involved in the suit. The provision under rule 10(2) of Order I of the Code of Civil Procedure, 1908, speaks about the judicial discretion of the Court to strike out or add parties at any stage of proceedings. The Court under Rule 10(2) of Order I of the Code will act according to reason and fair play and not according to whims and caprice.

**08.** On going through the application and the say filed by the plaintiffs, it appears that Defendant No. 01 is the real sister of the applicants. Admittedly, she has been made a party to the present suit as Defendant No. 01. The plaintiffs urged that Defendant No. 01 has been impleaded in the suit on the ground that she has allegedly and illegally obtained a heirship certificate and inserted her name in the suit property records. However, the question as to whether the said heirship certificate is legal or illegal is not the issue for determination at this stage.

**09.** It is an admitted fact that Defendant No. 01 has already been arraigned as a party to the suit. However, her other sisters, i.e., the present applicants, have not been impleaded. At this juncture, their presence appears to be necessary for the proper adjudication of the

dispute and for deciding the matter on its merits. Furthermore, if the applicants are impleaded as parties to the suit, no prejudice would be caused to the plaintiffs. Furthermore, if the applicants are impleaded as parties to the suit, no prejudice will be caused to the plaintiffs, whereas if they are not joined, there is a likelihood of multiplicity of proceedings and conflicting decisions. Hence, in the interest of justice and to enable a complete and effective adjudication, the presence of applicants as parties is essential. Therefore, the present application deserves to be allowed. Consequently, I pass the following order:-

**:- ORDER :-**

- 1] The application at Exh.34 is hereby allowed
- 2] The plaintiffs are hereby directed to implead applicants as defendants No. 08 to 10 in the present suit.
- 3] Necessary amendment be carried out accordingly.

(Dictated and Pronounced in open Court.)

Date:- 11/12/2025.  
Place:- Jamkhed.

**Sd/-**  
**(Anushri B. Phand)**  
Jt. Civil Judge Junior Division,  
**Jamkhed.**