

**ORDER BELOW EXH.134 IN R.C.S.NO. 215/2004**

- 1) Perused application and say. Heard learned counsel appearing for applicant and plaintiff. Perused record and proceeding.
- 2) Present application filed by applicants under Order 1 Rule 10 of C. P. C. for implementing themselves as a party defendant in this suit. It is the contention of applicant that plaintiffs have not given true and correct genealogy. In the instant suit plaintiffs have not impleaded heirs of Madhavsingh son of Kisansingh Ganpansingh. Therefore, applicant being the heir of late Madhavsingh is necessary party to decide this dispute in its entirety. Thus, applicant prayed for allowing this application.
- 3) Plaintiff resisted this application by contending that though applicant have sufficient time to file application, they failed to file present application at earlier stage. Their application is barred by limitation. Contents of their application are not true and correct. Only to protract hearing of this suit and to harass plaintiff present application has been filed. In the alternative, plaintiff prayed for cost of Rs.3,000/-.
- 4) On perusal of record and proceeding, it appears that plaintiffs have filed this suit for partition, separate possession of their share by mete and bounds and for perpetual injunction. Present applicant come before the Court with a theory that they are also successor of their ancestor Ganpatsingh who had three sons namely kisansingh,

Gopalsingh, Udhavsinh. In the instant suit plaintiffs have given genealogy of late Uddhavsinh's family only. The plaintiffs also affirmed the status of the property is ancestral. Considering this aspect there is substance in the contention of applicants. Moreover, identical application containing name of applicant was filed vide Exh.115 for same relief. However, as said application did not contain signature of present applicants, therefore, said application allowed only to the extent of those applicants who had signed it. Now, by this application, applicants rectifying their said mistake. As the previous application has been allowed, present application deserves to be allowed. However, it is necessary to compensate the plaintiffs for the delay caused on the part of applicants to file this application. Hence, following order.

**ORDER**

- 1) Application Exh.134 is hereby allowed subject to cost of Rs. 1,000/-
- 2) Plaintiff to carry out necessary amendment and to file amended plaint on record.

sd/xxx

Date : 31/07/2013

( R. V. Jagtap)  
Civil Judge, Sr.Division,  
Shrigonda