

**ORDER BELOW EXH.16 IN R.C.S NO.275/2021**

1. Present application has been placed on behalf of the one Dagadabai Popat Chavhan under Order I Rule 10(2) of Code of Civil Procedure, 1908, to implead her as defendant no.4 to the suit. Plaintiff and defendants have resisted the application by filing their say. Perused the application and say. Heard Ld. Pleaders appearing on behalf of applicant, plaintiff and defendants. Having regards to the rival contention of applicant and both the parties, following points have been arisen my discussion and determination and my findings against each of the points as under:-

<b>Sr.no.</b>	<b>Points</b>	<b>Findings</b>
1	Whether the applicant is essential to be impleaded as party to the suit	No
2	What order ?	Application is rejected.

**:: REASONS ::****As to Points No. 1 & 2:**

2. Through present suit, along with mandatory injunction, demarcation of boundaries of co-sharers in Gat no.12, situated within the limit of village *Mundhekarwadi*, has been sought by the plaintiff. I have gone through 7/12 extract of suit property ( land bearing Gat no.12). On perusal of 7/12 extract of suit property, it appears that as the name of proposed defendant has not been mutated to the revenue record of Gat no.12, she does not seems to be co-owner and co-sharer of suit property. Even it is not contention of the plaintiff

that proposed defendant has made or attempted to make encroachment over the suit property. Even it is not contention of the plaintiff that there is a boundary dispute between her and proposed defendant. So far as necessary parties in the suit for demarcation of boundaries are concerned, co-sharer or co-owner of particular Gat between whom boundary dispute exists or those are resisting the measurement, can be said to be necessary parties to the suit. The person who is not co-sharer of land to be measured, can not be said to be necessary or proper party to the suit.

3. Through, present application, proposed defendant has raised the grievance about the sanctioned consolidation scheme. However, civil court is not proper forum for raising such a grievance. Proposed party should have raised such grievance before consolidation officer. Being suit for demarcation of boundaries, facts pertains to legality of sanctioned consolidation scheme, can not be evaluated in present suit. Firstly, proposed party has to get the record corrected by raising the grievance before Consolidation Officer by pointing out illegalities or irregularities alleged to have been committed while preparing the scheme. If plaintiffs wants to claim her right in the suit property, even she could brought separate suit. Having regards to the nature of the present suit, the facts enumerated in the present application or right as claimed by the proposed party need not and can not be decided through present suit. If the question as raised by the proposed party through present application is taken to be resolved by impleading the applicant as

party to the suit, such a joinder may embarrass or delay the trial of the suit. On the cost of repetition, I would like to say again that proposed party is neither co-sharer of property sought to be measured, nor any sought of relief has been sought against her. Even, no boundary dispute exists between plaintiff and proposed party. Thus, no question arise as to implead the applicant as party to the suit. Absolutely, there is no necessity to implead the applicant as party to the suit. Considering above facts and circumstances, I pass following order :-

**:: O R D E R ::**

Application at Exh. 16 stands rejected.

Shrigonda  
Date: 20/04/2022

( H. J. Pathan )  
2<sup>nd</sup> Jt.Civil Judge(S.D.) Shrigonda