



ORDER BELOW EXH.10

The present application is a third party application filed by four persons namely Kisanbai Balasaheb Shinde, Lata Ramaji Bhadrike, Laxmibai Dilip Javale and Lilabai Shankar Patole under order 1 Rule 10 of the Code of Civil Procedure (for short C.P.C.) for adding them as a party non applicant in the present proceeding.

2. The main application is for grant of heirship certificate of deceased Dhula Natha Shinde. The applicant has contended in his application that, he is nephew of deceased Dhula Natha Shinde. Except him no other legal heirs are survived to deceased Dhula Natha Shinde. Thus, he has filed the present application for grant of heirship certificate in respect of property mutated in the name of deceased Dhula Natha Shinde in Gat No.653, 686 and 699 situated at Village Alkuti Tal.Parner.

3. By the present application, the third party applicants want to be added as non applicants in the present proceeding. It is their contention that Kishanbai Balasaheb Shinde is aunt of deceased Dhula Natha Shinde and applicant No.2 to 4 are cousins of deceased Dhula Natha shinde. They are legal heirs of deceased Dhula. Thus, they have interest and share in the property of deceased Dhula Natha Shinde. It is further contended that applicant had knowledge about the same however, he did not implead them as party to the proceeding. Their invaluable rights are involved in the proceedings. Thus, they prayed to add them as non applicants in the present proceeding.

4. The original applicant has filed his say below this application and strongly objected the application. It is the contention of the applicant that the third party applicants have no relationship with deceased Dhula Natha Shinde. They have admitted the said fact in the statement given before Tahsildar Parner. The present application is filed only to delay the proceeding. The application is false and bogus. Thus, he prayed to reject the application with costs.

5. Perused the record. The third party applicants have contended that they are relatives of deceased Dhula Natha Shinde. In support of their contention applicant No.4 has filed her affidavit. Whereas, the original applicant has contended that he is sole legal heir of deceased Dhula Natha Shinde. In support of his submission he has placed on record statement given by Lilabai Shankar Patole to Tahsildar on 13/01/2023. In said statement Lilabai has denied their relationship with deceased Dhula Natha Shinde. Thus, it is the

contention of the original applicant that third party applicants have no relation with the present proceeding. However, the third party application is supported by the affidavit of Lilabai. The veracity of the statement given by Lilabai to Tahsildar can be appreciated only after evidence is adduced by both the parties. It is also matter of record that another two civil miscellaneous applications bearing Civil M.A.No.5/2024 and 26/2023 are pending in Civil Court Parner in respect of same cause of action. Thus, in order to decide the real controversy between the parties it is necessary to give an opportunity to the third party applicants to appear and contest the main application.

6. Whether the main applicant is the sole legal heir of deceased Dhula or third party applicants are legal heirs of deceased Dhula can only be decided after appreciation of evidence led by both the parties. If the present third party applicants are added as non applicants in the application, then no harm will be caused to any of the parties. On the other hand, if the present third party applicants are not added as the party to the proceeding then their valuable rights might get affected. Moreover, it would help to decide the matter on merits. Therefore, it would be just and proper to add the present third party applicants as the non applicant Nos.1 to 4 in the present proceeding. Hence, I pass following order.

ORDER

1. Application is allowed.
2. The proposed third party applicants Kisanbai Balasaheb Shinde, Lata Ramaji Bhadrake, Laxmibai Dilip Javale and Lilabai Shankar Patole be added as party non applicant Nos.1 to 4 in the present proceeding.
3. Applicant is directed to add the present third party applicants in the main application as non applicant Nos.1 to 4 and file the amended copy of application on or before next date.
4. Cost in cause.

Date-05-12-2025

(S.R.Kanakdande)
2nd Jt.Civil Judge Junior Division,
Parner, Dist-Ahmednagar.