

RCS No.36/2024

Vijay Vs Hema.

CNR. No.MHAK090007672024

ORDER EXH.21

This is an application filed by Ram Vijay Nemade under Order-I Rule-10 and Sec.151 of C.P.C. for adding him as a plaintiff.

2. Read the application. Plaintiff has filed purshis at Exh.27 stating no objection to the application. Defendant filed his reply at Exh.24.

3. Heard Ld. Advocate for the applicant and the defendant.

4. It is submitted by the applicant that, the present suit is filed for permanent and mandatory injunction. The suit property is gifted to him by his father through registered gift deed bearing No.980/2024 on 28/03/2024 and thereafter mutation entry is also taken in his name and hence he has lawful right and interest in the suit property. Therefore, he is necessary party to the proceeding and adding him as a plaintiff will not cause any prejudice to the existing plaintiff or defendant. On contrary, if he is not added as a plaintiff he will suffer irreparable loss and hardship and thus application be allowed.

5. On contrary, defendant opposed the application and contended that, application is not tenable. Defendant has filed his W.S. and reply to Exh. 5 and present application is filed to fill the lacuna in W.S. and application. Plaintiff is having fool knowledge regarding false gift deed. Plaintiff have no right to file the suit and thus, applicant has no right to file this application. There is no cause of action to the applicant. Applicant has given false address in the present application and thus, he did not appear before the court with clean hand. There is no provision to file the application in suit for injunction on false document and thus, application be rejected.

6. Considering the rival of voices, following are the point for determination along with the findings and reason thereon.

Sr. No.	Point	Findings
1	Is addition of Ram Vijay Nemade as a plaintiff necessary in order to enable to the court to effectively and completely to adjudicate upon and settle all the questions involved in the suit ?	Yes
2	What order?	Application is allowed.

REASONS

As to point no.1

7. As per O-I R-10 of C.P.C.- (2) *Court may stirke out or add parties.—The Court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Court to be just, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name, of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added.*

8. The applicant has given on affidavit that the suit property is gifted to him by registered gift deed. Plaintiff have no objection. The suit is for common and mandatory injunction. Whether the applicant have any lawful right or interest in the suit property will be decided only by the evidence. As the suit is for injunction, if decreed, if rights and interest of all the persons are not known to the court, there would arise complicity in the execution. The applicant claims right and interest in the suit property, and thus I am of view that, chance must be given to him to show the same and this will enable to the court to effectively and completely to adjudicate upon and settle all

the questions involved in the suit. Thus, considering the provisions and reasons discussed above, finding to this point is recorded in affirmative.

As to point No.2

9. In furtherance of finding of point above, in answer to this point following is the order.

ORDER

1. Application is allowed.
2. Plaint be amended accordingly.
3. Parties to take note.

Date:-13.01.2025

(R. R. PAKADE)
Jt. Civil Judge (Jr. Dn.), Murtizapur.

CERTIFICATE

I affirm that the contents of this PD.F. File Order/Judgment are same, word to word, as per the original Judgment/Order.

Name of the Bench Stenographer	S. R. Adhau
Name of the Court	Jt. Civil Judge (J.D.) & J.M.F.C., Murtizapur.
Date of Order & Judgment	13/01/2025
Order/Judgment Signed by the P.O. On	13/01/2025
Judgment/Order uploaded on	14/01/2025