

Regular Civil Suit No.15/2019
Bharti+2 -vs- Ajay + 4
Order below Exh. 41

ORDER BELOW EXH. 41
(Passed on 19.11.2024)

The present application is filed by the plaintiffs under Order I Rule 10 of the Code of Civil Procedure, 1908 for addition of party in the present suit and to amend the plaint.

2. The contention of the plaintiffs is that the deceased husband of plaintiff No. 1 signed on the blank papers under the influence of liquor and handed them to Sau. Babita Rajendra Paliwal. On the basis of those signed papers, the defendants and Sau. Babita Rajendra Paliwal prepared false documents and executed illegal earnest note. Sau. Babita Rajendra Paliwal is a necessary party to the present suit. There is need to add Sau. Babita Rajendra Paliwal as a defendant in order to decide the suit on merits. Hence, they prayed to allow the application.

3. Says of the defendants were called. The defendants filed say overleaf and strongly opposed the application. Perused the application, say and the record. Heard both sides and their learned advocates. They reiterated same as per the application and the say.

4. Taking into consideration the application, the say and submissions of advocates for both sides, the following points arise for my determination to which I have recorded my findings along with the reasons thereunder -

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Sr. No.	Points for determination	Findings
1.	Whether the plaintiffs have proved that Sau. Babita Rajendra Paliwal is a necessary party to the present suit ?	Yes.
2.	What order ?	The application is allowed as per the final order.

REASONS

AS TO POINTS NO. 1 AND 2 :

5. Both the points are interlinked with each other. Therefore, in order to avoid the repetition of the facts and evidence, these points are taken together for discussion. The present suit is filed for declaration and permanent injunction. It is contended by the plaintiffs the deceased husband of plaintiff No. 1 signed on the blank papers under the influence of liquor and handed them to Sau. Babita Rajendra Paliwal. On the basis of those signed papers, the defendants and Sau. Babita Rajendra Paliwal prepared false documents and executed illegal earnest note. The defendants have no right to dispose of the suit property without the consent of the plaintiffs as it is the ancestral property. Sau. Babita Rajendra Paliwal is a necessary party to the present suit. There is need to add Sau. Babita Rajendra Paliwal as a defendant in order to decide the suit on merits.

6. Order I Rule 10 of the Code of Civil Procedure, 1908 provides that the Court has power to add the necessary party to adjudicate the suit effectively and completely. The necessary party is a party without whose presence, the suit cannot be adjudicated

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conclusively. It is the contention of the plaintiffs that the defendants executed illegal earnest note of the suit property in favour of Sau. Babita Rajendra Paliwal. In the present suit, disposal of the suit property by way of sale in favour of Sau. Babita Rajendra Paliwal is the main contention. Therefore, Sau. Babita Rajendra Paliwal is the necessary party to decide present suit effectively and finally. Hence, her presence is required for the complete and effective adjudication of the suit. In order to avoid the multiplicity of the proceedings, it is necessary to add the necessary party having direct involvement with the suit. On the other hand, no prejudice will be caused to the defendants if the proposed defendant is added in the present suit. The objections raised by the defendants are not satisfactory and reasonable.

7. Considering the nature of the suit and the contention of the plaintiffs, it is clear that the present application has merits and substance. In order to adjudicate the suit conclusively, it is necessary to add Sau. Babita Rajendra Paliwal as a defendant in the present suit. In view of the above discussion, it is clear that the present application deserves to be allowed. **Hence, point No.1 is answered in the affirmative.** Taking in view the nature of the application, it would be just and proper that costs shall be added in the main cause. **In order to answer point No.2, the following order is passed.**

ORDER

1. The present application (Exh.41) is allowed as under.
2. Sau. Babita Rajendra Paliwal be added as defendant No. 6 in the present suit.

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3. The amendment be carried out within the period of 14 days from the date of this order.
4. The plaintiffs shall supply copy of the amended plaint to the defendants and shall supply the amended copies on the record.
5. Costs in main cause.
6. Both the parties shall take note.

(Dictated and pronounced in the open Court).

Date : 19.11.2024.
Teosa.

(Vaibhav H. Shende)
Civil Judge (Junior Division),
Teosa.