

MHAU050029502010



ORDER BELOW EXH.140 IN REG. CIVIL SUIT NO.433/2010

(Sahebrao and others Vs. Asarabai and Others)

[Order passed on 02/04/2025]

Defendant No.14 has moved this application to delete him from the proceeding.

2. It is the contention of the said defendant that, present suit is filed by plaintiffs for the relief of injunction in respect of Gut No.359 of Vaijapur and claimed that, defendants are trying to create access way through the suit land illegally. However, in a pleading and prayer clause there is no any whisper about the remedy is claimed against him. The plaint and pleading is totally silent about the obstruction at the hands of him. He is arrayed wrongly as a defendant in a suit therefore, in view of the provision Order 1 Rule 10 Sub-Rule 2 of the C.P.Code, his name be deleted from the suit. Lastly, prayed to allow the application.

3. Application is opposed by plaintiffs on the reasons that, present suit is for the relief of perpetual injunction against the defendants and subject matter of the present suit is the way to access their land. If defendant No.14 is ready to give undertaking that he will not disturb to the right and interest of the plaintiffs to use the way in dispute, then they have no objection to delete his name from the proceeding. Lastly, prayed to reject the application.

4. Perused the application and say thereon. Considered the stage of present matter. If the subject matter of the present suit and prayer claimed of the suit are considered, this Court do not finds any legal substance in the application of the defendant No.14, because he has been added as a party to the suit in view of the order passed below **Exh.133**. If present application of defendant No.14 is entertained, it would amount canceling the order passed below **Exh.133**. Impliedly, defendant No.14 has taken an exception to the order passed below **Exh.133** by way of this application. Therefore, present application of the defendant No.14 cannot be entertained. Considering the fact of the matter this Court passed the following order :-

ORDER

1. Application stands rejected.

Date : 02-04-2025.
Place: Vaijapur.

(R. M. Karade)
Jt. Civil Judge, Senior Division
Vaijapur.

CERTIFICATE

I affirm that the contents of this P.D.F. file order are same, word to word, as per the original Order.

Name of the Stenographer	: P. N.Waghamare.
Name of the Court	: Jt. Civil Judge, (S.D.), Vaijapur.
Date of Order	: 02.04.2025
Order signed by the Presiding Officer	: 02.04.2025
Order uploaded on	: 02.04.2025