

MHAU080027002017.



R. C. S. No. 239/2017.
Gajanan & oths Vs.
Kailas & oths.
CNR.No.MHAU080027002017.

ORDER BELOW EXH-16.

Applicant Mangalbai Prasad Shelke has filed present application for impleading her in the present suit under Order-I, Rule-10 of Civil Procedure Code, 1908.

2. Applicant submitted that, land Gut No. 120 admeasuring 16 R is owned by applicants. On 06.10.2015 her husband Prasad Namdeo Shelke of partition with said and since then she is in possession of the land. Plaintiff has intentionally not made party in the present suit. If she is not impleaded in the present suit she will suffer irreparable loss. Hence, prayed to implead her in the present suit.

3. Plaintiff strongly resisted the application by filling say. They submitted that, plaintiff has impleaded husband of applicant at defendent no. 7. Applicants name is not recorded in the 7/12 extract hence, she is not necessary party to the suit. Applicant has filed present application to protract the trial. Hence, prayed to reject the application with cost.

4. Heard learned advocate Shri. G. V. Dhone for applicant and learned advocate Shri. S. K. Dhakare for plaintiff at length.

5. Points for determination and finding thereon along with reasons therefor, as under.

<u>S. No.</u>	<u>Points</u>	<u>Findings</u>
1.	Whether presence of applicant before the court is necessary for effectually and completely adjudicate upon and settle the questions involved in the present suit.	. . . Yes.
2.	What order	. . . Application is allowed.

REASONS

6. Before going to merit of the present application it is necessary to go through Order-I, Rule-10 of Civil Procedure Code, which provides that,

Court may strike 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.

7. Learned advocate for applicant Shri. G. V. Dhone argued that, applicant is owner and possessor of land admeasuring 16 R in Gut No. 120 situated at Savarkheda. As per the partition deed dated 06.10.2015 applicant became the owner and possessor of suit land to the extent of 60 R in support of submission he also filed certified copy of mutation entry no. 1258.

8. On perusal of mutation extract it appears that, as per the partition deed name of applicant is recorded in the record of rights of Gut No. 120. Plaintiff have filed present suit for encroachment and possession. Applicant is owner and possessor of suit land as per the

7/12 extract hence, she is necessary party in the present suit. Hence, presence of applicant before the court is necessary for effectually and completely adjudicate upon and settle the questions involved in the present suit and without her presence in the suit the matter will not be properly adjudicated. Hence, application is deserves to be allowed. Hence, I pass following order.

ORDER

- 1] Application is allowed.
- 2] Cost in the cause.

Date : 22.08.2019.
Sillod.

(A. B. Patil)
Jt. Civil Judge Junior Division,
Sillod.

C E R T I F I C A T E

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

Name of the Stenographer	: K. P. Patil
Court Name	: Shri. A. B. Patil Jt. Civil Judge Junior Division, & J.M.F.C. Sillod.
Date	: 22.08.2019.
Order signed by presiding officer on	: 22.08.2019.
Order uploaded on	: 22.08.2019.