

ORDER BELOW EXH.106 IN R. C. S. NO.88/2012
CNR-MHBI090000882012

- 1] This application is filed under Order 1 Rule-10 of C. P. C.

- 2] Plaintiff submit that the original owner of the suit property is Mr. Murlidhar. He during his lifetime executed a relinquished deed in the name of nephew. So, Mr. Mahendra Manmohan Mandhane is necessary party and he to be added as plaintiff No.7 in present suit. He prayed to allow his application.

- 3] Defendant Nos.1 to 3 and 8 submitted their say and strongly opposed on the ground that there is delay to file this application is of 5 years. Plaintiff was having knowledge even then they do not move application in time. So, application be rejected or if allowed it to be with cost.

- 4] I have heard learned Advocates appearing for the parties.

- 5] Before appreciating this application this Court likely to state that the suit is presented for possession of encroached land by Mr. Murlidhar on 21/02/2012. The original plaintiff i.e. Murlidhar died on 15/01/2017. After death of Murlidhar the Lrs are brought on record. During pendency of this suit, Murlidhar had executed a relinquished deed in favour of Mahendra Mandhane to whom plaintiff wants to add as plaintiff No.7 in this present suit. In support of the contention of the plaintiff relating to relinquished deed the documents are filed on record.

I perused those documents from it appears at this stage some document is executed by Murlidhar in favour of Mahendra relating to the suit property i.e. out of S.No.339 to the extent of 3-H 3-R land. Furthermore, the mutation entry also shows that it is on the basis of relinquished deed. In such contention of the plaintiff are supported by the documents even the defendant Nos.1 to 3 and 8 had not objected to add Mahendra as a plaintiff.

6] While considering the application under Order 1 Rule 10(2) of C. P. C. If the Court enable and effectually and completely to adjudicate upon and settle all question involved in the suit in such that party is to be added. The plaintiff is claiming the possession of suit property. Here out of the suit property some part of land is relinquished by Murlidhar to Mahendra by relinquished deed. So, here the Court is of view that Mahendra is necessary party to the suit and he is to be added.

7] On the other hand the suit is presented on 21/02/2012. Mr. Murlidhar died on 15/01/2017. As per the contention of the plaintiff the relinquished deed was executed on 16/11/2013. So, here the plaintiff is well aware of the relinquished deed in the year 2013 itself. But, this application for adding Mahendra is filed on 21/07/2018. So, definitely there is a more delay from the side of plaintiff to move this applicatin. So, for causing delay by imposing cost the application for the above said reasoning is allowed. Hence, this Court pass the following order.

ORDER

1. Application is allowed.
2. Mahendra Manmohan Mandhane to be added as plaintiff No.7 in this present suit.

3. Plaintiff to carry out amendment on or before 17/06/2019.
4. Plaintiff for causing delay to pay a cost of Rs.1000/- and the cost be credited to Legal Aid on or before 17/06/2019.

Date : 06.06.2019

Sd/-
(R. K. Gujjar)
Joint Civil Judge S. D.
Majalgaon.