

MHGO040000082016**RCS No. 01/2016**

**Devkanbai Tekchand Yerane and Ors.
Vs.
Tarashanbai Devilal Kapse and Anr.**

ORDER BELOW EXH.36

This is an application filed by the plaintiff no. 1, 4 to 6 for transportation of plaintiff no. 2 and 3(a) as defendants in present matter. The plaintiffs contended that the plaintiff no. 2 and 3(a) are not co-operating with the remaining plaintiffs. Therefore, it is necessary to transport them as defendants in the present matter.

2. The defendant no. 1 and 2 have filed their say at Exh. 38 and denied the contents of present application. The defendants contended that, the present application is filed with the intention to prolong the matter. The plaintiff no. 2 and 3(a) cannot be compelled to join as defendants. The plaintiff no. 2 and 3(a) are entitled to leave the present suit. Hence, prayed to reject the application.

3. Read the application and say. Perused the record. It appears that, the plaintiffs have filed the present suit for partition and separate possession. Therefore, prima facie, it appears that rights and shares of the parties will be decided at the final hearing of the present suit.

4. From perusal of the pursis (Exh. 35), it appears that, the plaintiff no. 2 and 3(a) informed the Court that, they do not want to contest the present suit. Therefore, it appears that the defendant no. 2 and 3(a) have not interested to proceed further as

plaintiffs in the present matter.

5. However, as the suit is for partition and separate possession, it would not be proper to allow the plaintiff no. 2 and 3(a) to leave the proceeding. The presence of the plaintiff no. 2 and 3(a) is seen to be necessary for proper adjudication of the present matter. Therefore, as the plaintiff no. 2 and 3(a) are not interested to proceed further as plaintiffs, it would be proper to transport the plaintiff no. 2 and 3(a) as defendant no. 3 and 4 as per Order 1 Rule 10 of the Code of Civil Procedure. Hence, I pass the following order.

ORDER

1. The application (Exh.36) is allowed.
2. The plaintiff no. 2 and 3(a) are hereby allowed to transport and include as defendant no. 3 and 4.
3. The plaintiffs are directed to amend the plaint accordingly and supply the necessary copies thereof within 14 days from this order.
4. Both parties to bear their own costs.

Date : 22/07/2026.

Place : Amgaon

(Sameer Gopal Gunari)
I/c. Jt. Civil Judge Junior Division,
Amgaon.