


MHGO040008012025 	<u>RCS No. 44/2025</u> Latikabai Tikaram Bhimte and Ors. Vs. Charandas Dhana Bhimte and Ors.
--	---

ORDER BELOW EXH. 25

This is an application filed by the plaintiffs for addition of party in the plaint as per Order I Rule 10 of the Code of Civil Procedure and also for amendment in pleading as per Order VI Rule 17 of the Code of Civil Procedure.

2. The plaintiffs contended that they are in the settled possession in the suit property. Plaintiffs have legal right and title over the suit property. The defendants illegally sold the suit property by the sale deed dated 04/03/2026 in favour of proposed defendants. The defendants have not delivered the possession of the suit property to the proposed defendants. The sale deed of proposed defendants is hit by principle of lis-pendens. Therefore, the said sale deed is null and void and not binding upon the plaintiffs. Hence, prayed for addition of defendant no. 5 and 6 as prayed in the application. The plaintiffs also prayed for addition of para no. 5(a) in plaint by way of amendment as regarding the facts in respect of sale deed dated 04/03/2026. So also plaintiffs prayed for addition of para no. 11(a), para no. 14(a)(i) in the plaint as prayed in the application.

3. Despite of sufficient opportunity the defendants have not filed their say to the present application. Hence, proceeded without say of defendants.

4. Read the application. Perused the record. Heard learned

advocates for plaintiffs. The plaintiffs have filed the present suit for declaration and for perpetual injunction. The present application is filed under Order I Rule 10 of the Code of Civil Procedure.

Order I Rule 10 provides that -

10. Suit in name of wrong plaintiff.—(1) Where a suit has been instituted in the name of the wrong person as plaintiff or where it is doubtful whether it has been instituted in the name of the right plaintiff, the Court may at any stage of the suit, if satisfied that the suit has been instituted through a bona fide mistake, and that it is necessary for the determination of the real matter in dispute so to do, order any other person to be substituted or added as plaintiff upon such terms as the Court thinks just.

(2) **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.

(3) No person shall be added as a plaintiff suing without a next friend or as the next friend of a plaintiff under any disability without his consent.

(4) **Where defendant added, plaint to be amended.**—Where a defendant is added, the plaint shall, unless the Court otherwise directs, be amended in such manner as may be necessary, and

amended copies of the summons and of the plaint shall be served on the new defendant and, if the Court thinks fit, on the original defendant.

(5) Subject to the provisions of the 1[Indian Limitation Act, 1877 (XV of 1877)], section 22, the proceedings as against any person added as defendant shall be deemed to have begun only on the service of the summons.

5. As per the above mentioned provision it is required to see whether the presence of proposed defendant no. 5 and 6 is necessary for effective and complete adjudication of the matter in dispute.

6. The plaintiffs have filed the present suit for declaration as they are the owners of the suit property. It appears that the plaintiffs have claimed their ownership by virtue of sale deed dated 05/08/1974. Therefore, prima facie it appears that the issue regarding ownership over the suit property is a fact in issue in the present case. Accordingly, the issue regarding ownership will be decided at the final hearing of the present suit.

7. The plaintiffs have filed on record the copy of sale deed dated 04/03/2026. From perusal of said sale deed prima facie it appears that, it is executed in respect of gat no. 271 i.e the suit property in the present suit. Therefore, prima facie it appears that the defendants have executed a sale deed in respect of the suit property in favour of proposed defendants and the proposed defendants have acquired some rights in the suit property. Accordingly, as the issue regarding ownership is involved in the present suit, the presence of proposed defendant no. 5 and 6 seen to be necessary. Hence, proposed defendants are seen to be necessary parties.

8. The plaintiffs also wants to amend the plaint and to incorporate the pleading regarding the sale deed dated 04/03/2026 and also wants to add prayer of declaration in respect of said sale deed. It appears that the sale deed is executed during the pendency of the present suit. Therefore, it appears that it is required for the plaintiffs to add some pleading in respect of said sale deed and to pray declaration accordingly. Hence, it would be proper to give permission to the plaintiffs to amend the plaint as prayed and also to add defendant no. 5 and 6 in the present suit. Hence, I pass following order ;

ORDER

1. The application (Exh. 25) is allowed.
2. Plaintiffs are directed to amend the plaint and to add defendant no. 5 and 6 as prayed and also add pleading as prayed in the application within 14 days from the date of this order.
3. Plaintiffs are directed to supply the amended plaint and necessary copies thereof within 14 days from the date of this order.
4. Both parties to bear their own costs.

Date : 24/03/2026.
Place : Amgaon

(Sameer Gopal Gunari)
Civil Judge Junior Division,
Amgaon.