

Spl.C.S. No.61/2014
Lata-Vs . Vipulkumar and others

Order Below Exh-64

CNR No.MHJN02-0000896-2014

1. Plaintiff filed this application for adding proposed parties as defendants in this suit. This application in short as under:-

Plaintiff filed this suit for declaration and for perpetual injunction in respect of the suit property i.e. Plot No.51 to 53 from Survey No.356 situated at Jalna. During the pendency of this suit, the defendant mortgaged this property with Sundarlal Sawji Co-op. Bank Ltd. Jintur, Branch at Jalna towards security of loan obtained by him. Therefore the bank is now necessary party to this suit. So he asked for adding the bank as a party to this suit.

2. The defendant opposed this application by filing say at Exh.71. He raised objection with the submissions that he has obtained this loan from the bank by mortgaging other properties alongwith the suit property. Those other properties are not subject matter of the suit therefore bank is not necessary party and application deserved to be dismissed.

3. Heard submissions from both parties at length. The defendant is admitting that he has mortgaged other properties alongwith the suit property. The suit property have not been transferred to the bank. Hence, the bank is not necessary party.

4. After hearing both parties at length, I conclude as under:-

That the defendant is admitting the fact that he has mortgaged the suit property with the bank though alongwith other properties which are not subject matter of this suit. He is also not denying that he mortgaged the property during the pendency. I disagree with his submission that the property has not transferred to the bank therefore bank is not necessary party. When the defendant has created a third party interest, the bank become property party to the suit though not necessary party. I considered the submission of plaintiff that it would cause delay while executing the decree if the plaintiff succeed in this suit. So I am of the view that the bank is proper party and therefore plaintiff is permitted to add the bank as a party and may take necessary steps for its appearance. Concluding the discussion, I pass following order:-

ORDER

1. Application is partly allowed to the extent of relief under Order I Rule 10 of C.P.C. for adding party.
2. The plaintiff is directed to add the bank as a party and by making necessary changes take steps against it on or before 16th September, 2019 for its appearance.

Date : 05.09.2019

Sd/-
(Prashant Kulkarni)
Civil Judge (S.D.),
Jalna

C E R T I F I C A T E

I affirm that the contents of this PDF file are word to word as per original Judgment.

Name of Steno : T. A. Bakshetti

Name of the Court : Civil Judge Senior Division Court, Jalna

Date : 05.09.2019

Sd/-

Signature of Stenographer