

**BELOW EXH. 62**

This an application moved by defendant no. 1 to 3 praying to add an issue. It was contended by the defendants that, after perusing 7x12 extract vide Exh. 8 and 9 there is name of one Hanuman Nivruti as owner in the suit property, but he is not made party to the suit. As the plaintiff did not mention name of Hanuman Nivruti in the plaint hence defendants did not mention his name in their written statement. Hence prayed to add an issue that whether the Hanuman Nivruti deserves to added defendant in the suit .

Plaintiff submitted his say vide Exh. 63 , submitting that Hanuman Nivruti was son of defendant no. 1 and brother of defendant no. 2 and 3. he died unmarried in his minor age, he left no heirs or successors except defendant no 1 to 3. hence he does not deserves to be added as defendant in the suit. Hence prayed to reject this application.

Perused application, say, documents on record. Heard both the side at full length.

In the suit defendants filed their written statement and adduced their evidence, but nowhere they have mentioned name of Hanuman Nivruti. Though the defendants prayed to add an issue in respect of Hanuman Nivruti, but their application itself is not clear, it seems somewhere material related necessary facts are concealed by the defendants. Defendants did not admit or deny any relation with Hanujman Nivruti, while plaintiff contended that Hanuman was son of defendant no 1 and brother of defendant no. 2 and 3. defendants further did not admit or

deny alive status of the Hanuman. While plaintiff contended that he died in his minor age. Defendants further did not admit or deny whether he has any heirs or successors, while plaintiff contended that he has no heirs/successors except defendant no. 1 to 3. moreover defendants nowhere denied or admitted that the lands in the name of Hanuman Nivruti are owned or possessed by them, while plaintiff submitted that lands in the name of Hanuman Nivruti are possessed by the defendants.

Here it seems that either material facts are hidden by the defendants or they kept silence in this regard, hence application itself became vague or ambiguous. Moreover effect of not adding Hanuman Nivruti in the suit as defendant will be considered at the time of appreciation of evidence (if any) according to prescribed provisions of law. Hence I proceed to pass following order.

**order**

1. Application is hereby rejected.

Date : 23/11/2018

(M. S. Quazi)  
CJD Partur.