

MHKO010004242001



Order passed below Exh.71 in R.C.A.No.252/2002

1. This is an application under Order 1 Rule 10 r.w. 151 of Code of Civil Procedure,1908 filed by appellants for impleading the Chairman and Secretary of respondent, Pashchim Maharashtra Devasthan Samiti as defendants/respondents in the present proceeding.
2. It is averred in the application that, the Chairman and Secretary of respondent, Pachim Maharashtra Devasthan Samiti have been recently appointed in August,2017. Therefore, the said persons are required to be impleaded in the present suit as necessary party. As per the provisions of Maharashtra Public Trust Act, it is mandatory that, the Chairman & Secretary of the Trust are to be impleaded as party. In present case, Shri.Mahesh Balasaheb Jadhav and Smt. Vaishali Rajesh Kshirsagar are required to be made as party to the proceeding. No prejudice will be caused to the respondent if the said persons are made party to the proceeding.
3. None of the respondents, except respondent nos. 3 & 4 have filed say to the present application. So also, the proposed party though served with notices vide Exh.72 & 79, failed to appear and file say.

4. Respondent nos. 3 & 4 have opposed the claim of appellants, contending that the application is not signed & supported by affidavit of the parties. The appellants intends to add proposed party as necessary party as they are members of respondent no.2 Public Trust. As per the law, all trustees are necessary party. The appellants have not prayed to add all the trustees of respondent no.2. Thus, the application is not complete in itself. The appellants are taking every possible step to prolong the matter and the present incomplete application is also part of the same. Hence, prayed for rejection of application with costs.

5. The contentions in the application that the proposed defendants Shri.Mahesh Jadhav and Smt.Vaishali Kshirsagar are appointed as Chairman & Secretary respectively of Paschim Maharashtra Devasthan Samiti is supported by Govt.Notification produced on record below list Exh.75. It is not disputed that as per law, the trustees are necessary party. Accordingly, the proposed party being the trustees are required to be impleaded in the present proceeding.

6. So far as respondents' objection that the appellants have not prayed to add all the trustees shown in the Govt. Notification below list at Exh.75 is concern, it needs to be considered that appellant/plaintiff cannot be compelled to add any party and as such issue of non joinder of necessary party, if any can be dealt with at proper stage. Therefore, said objection cannot be a ground to deny the claim of plaintiff for impleading the

Chairman & Secretary of the trust in the present proceeding.

7. Further the objection of respondent that, application is bad for want of signature of plaintiff on the application and non filing of their affidavits can be taken care of by issuing necessary directions for compliance of the affidavits.

8. In view of above discussed facts & circumstances, documents and nature of suit, I hold that, the proposed defendants/respondents are necessary party to the proceeding. Hence, I pass following order:-

ORDER

1. Application is allowed, subject to filing of affidavits of plaintiffs in support of the claim therein in the application.
2. Appellants/plaintiff to add the proposed defendants/respondents mentioned therein in the application as party to the proceeding and make necessary compliance.

Sd/-

Date:- 18.6.2019
Kolhapur.

(Smt.A.V.Choudhari-Inamdar)
Adhoc District Judge-4
Kolhapur.

I affirm that the contents of this P.D.F. file order are same, word to word, as per the original order.

Name of the Stenographer	Sou.S.R.Tambvekar
Name of Court	Smt.A.V.Choudhari-Inamdar Adhoc Dist.Judge-4 Kolhapur.
Date of Dictation	18/6/2019
Order signed by the P.O. on	18/6/2019
Order uploaded on	18/6/2019