

MHKO050011852018



Shri Nagaraj Alias Raju Muralidhar Mule Vs
Smt. Chhabutai Muralidhar Mule & others

Order below Exh.23 in Reg.Civil Suit No.128/2018

(1) The third party applicants namely Kalawati Namdev Mule and Jyoti Anil Bhasme are moved this application under Order 1 Rule 10 of Code of Civil Procedure and prayed to add them as defendant.

(2) According to applicants, the applicant No.1 is aunt of plaintiff and defendant No.2 to 4. Predecessors of plaintiff sold out 450 sq.ft. portion of suit property to the predecessor of the applicants. After the death of her husband she has $\frac{1}{2}$ share in suit property which is in her possession, she alongwith applicant No.2 is residing in suit property. Thereafter, again defendant No.4 admitted the possession of third party applicant by way of notarized deed to the extent of 450 sq.ft. portion. The plaintiff intentionally avoided the applicants to make the party in the suit and therefore, they prayed to add them as defendants.

(3) Plaintiff opposed the application by filing reply at Exh.24. According to them, the applicants have no any concern with the suit property. They have no any right, title and interest in the suit property. They moved this application with intent to prolong the suit.

(4) Perused application and reply. Heard both sides at considerable length.

(5) The applicants produced the document dtd.26/06/1969 which discloses the transaction in between predecessors of the plaintiff and applicants. No doubt this document is not registered document and not showing the clear aspect or numbers of the suit property, but at this juncture, this document being a 30 years old document cannot be ignored. Further the notarized deed also discloses that defendant No.4 admitted the ownership and possession of the third party applicant to the extent of 450 sq.ft. portion.

(6) The mere reply of plaintiff cannot be considered to accept the contention of plaintiff that the third party applicants has no any concern with the suit property. Moreover, the applicants also produced some documents i.e. list of assessment, tax receipt, electricity bill which discloses the number of suit property and concern of applicants. Whether these documents are relevant to the suit property or not relevant cannot be considered at this juncture, but these documents showing the concern of the applicants with the suit property. The plaintiff filed this suit for the relief of partition. The present applicants brought some material on record to show their concern as a sharer of a suit property. Therefore, the presence of applicants is necessary for final adjudication. Hence, I proceed to pass the following order.

ORDER

1] The application is allowed.

2] The plaintiff shall make necessary amendment and supply copy of amended plaint on or before next date.

Date-25/11/2021
Ichalkaranji

(P. S. Bhandari)
2nd Jt. Civil Judge Junior Division
Ichalkaranji

आदेश नि. वर रे.दि.मु.नं. /२०

इचलकरंजी
दि. /१०/२०२१

(प्रितेश भंडारी)
२ रे सह दिवाणी न्यायाधीश, क.स्तर,
इचलकरंजी.