



RCS No.341/2022.

Javed V/s. Abdul and Ors.**Order passed below Exhibit No.33.**

By filing present Application, the Plff. seeks permission to implead persons named in the Appln., as proposed Deft.No/s.3 to 7. Heard. Perused. Despite sufficient opportunity, the Deft/s. opted not to file their Say. Main thrust of argument advanced by Ld.Adv. for the Plff. is that considering the nature of present controversy, the named persons are necessary parties and to do the complete and effective adjudication, their presence is very much necessary.

(2) From the contentions, as advanced and *prima facie* from perusal of the record, it appears that there is an alienation of the Suit property during pendency of the Suit with which person named at serial No.3 and at Serial No.4 to 7 have direct nexus being alinee purchaser and party consenting therefor. In view of this, I do not see any impediment to allow the Appln.

(3) The power to stake out or add parties can be exercised by the Court at any stage of the proceedings. The power of a Court to add a party to a proceeding cannot depend solely on the question whether he has interest in the suit property. The question is whether the right of a person may be affected if he is not added as a party. Such right, however, will include necessarily an enforceable legal right.

(4) After-all, it is for the Court to consider whether person who seeks his impleadment is either a necessary party or a proper party. A person in whose absence no effective decree / order could be passed

at all by the Court, needs to be impleaded. At the same time, regard must be had that, sometime, party who seeks impleadment, though not a necessary party, is a person whose presence would enable the court to completely, effectively and adequately adjudicate upon all matters in disputes in the suit.

(5) The question of addition of parties is generally not one of initial jurisdiction at the Court, but a judicial consideration which are to be exercised in view of all the facts and circumstances of a particular case. In order to do the real, proper and effective justice, this Court is of the view that, presence of Applicant is must/necessary. Keeping in view of the above discussed basic principles, it is clear that it is discretionary to grant a relief under Order 1 Rule 10 (2) C.P.C and prayer can be granted even without the consent of the plaintiff. Hence, the order :

ORDER

(i) Application is allowed.

(ii) The Plaintiff is directed to implead the persons named at Serial No/s.3 to 7 as party Defendants.

(iii) Amendment to be carried out forthwith also supply copies of Exh.No.1 and documents as per list at Exh.No.3. Then, issue suit summons to newly impleaded Deft/s.

(iv) The Plaintiffs to file copy of amended plaint and make necessary compliance else; consequences as per Order IX Rule 2 would follow.

(Ganesh Ambadas Ghule)
2nd Joint Civil Judge, Jr.Divn.
Ichalkaranji, Tal.Hatkanangale,
Dist.Kolhapur.
JO Code : 2594.

Date : 08/08/2024.