

MHKO070006482022



National Dying and Bleaching Works
through Shri. Hansraj Gokuldas Ved and others
V/s.
Grampanchayat, Udgaon

ORDER PASSED BELOW EXH.13

Perused the application and say of plaintiff at Exh. 14. Heard both sides. Gone through plaint and documents filed on record by plaintiff. Applicant Nos. 1 to 9 are members of Grampanchayat Udgaon i.e. defendant No.1. They want to join as party defendants to suit as according to them plaintiff, Village Development Officer as well Sarpanch of Udgaon are in collusion with each other in respect of suit claim. Instead of service of notice, they have intentionally avoided to appear before court through defendant and contest Exh.5 and suit claim. Thus, in order to protect interest of villagers and for deciding suit on merits they be added as defendants.

2] Per contra, plaintiff submits that, applicants are only 9 members out of total 17 members of defendant No.1. According to plaintiff, these third party applicants are not

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representing entire Grampanchayat. Moreover they are not necessary parties to suit. If, court comes to conclusion that, they are necessary parties, they be compelled to expedite hearing of suit after their joining as defendants.

3] I have carefully gone through contentions of both sides. The suit claim is under Specific Relief Act. Plaintiff is seeking equitable relief of injunction against defendant Grampanchyat. Third party applicants are representatives elected by villagers of said Grampanchayat which is body representing local self Governments.

4] If present claim of plaintiff is considered in view of provisions laid down in Order 1 (Rule 1 to 3), it appears that plaintiff claim is against Grampanchyat defendant No.1, which is local body, represented by present third party applicants. Needless to mentioned that, they are having right to protect interest of defendant No.1, considering welfare of villagers, who have elected them. However the special provisions are given for said purpose in The Maharashtra Village Panchayat Act, 1958. The Sarpanch their leader and Gramsevak are the persons who are representatives of them for doing such work. But in present case for the best reasons known to plaintiff they have not made Sarpanch and Gramsevak of defendant No.1 as party defendants.

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5] After combine reading of provisions in Maharashtra Village Panchayat Act, 1958, and procedure prescribed in Section 79 and Order XXVII of the Code of Civil Procedure, the plaintiff should have made Sarpanch and Gramsevak of defendant No.1 as party, which is not done by plaintiff. However considering nature of suit, in my opinion this irregularity can be cured by giving directions to plaintiff under Order 1 Rule 10(2) of C.P.C., for joining the Sarpanch and Gramsevak as party defendant Nos. 2 and 3 respectively being proper as well necessary parties.

6] In my opinion, for deciding the suit on merits, for effective adjudication of all disputes between the parties the presence of these authorities, representing defendant No.1 is necessary.

7] Considering all above reasons, third party applicants as well Sarpanch and Gramsevak of defendant No.1 will be proper parties to suit hence are needed to be allowed to join and defend the suit by joining as party defendants.

8] In my opinion the interest of Grampanchayat defendant No.1, can be protected in better way if above parties will be joined as party defendants. Hence, I proceed

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to pass following order, which will meet ends of justice.

ORDER

- (1) Application Exh. 13 is allowed.
- (2) Third party applicants are allowed to be joined as party defendants.
- (3) Plaintiff is also directed to join Sarpanch and Gramsevak of defendant No.1 as defendant Nos. 2 and 3 respectively.
- (4) Plaintiff to join all above parties to suit carry necessary amendment in plaint and supply amended copy of plaint on or before next date.

Date – 28/06/2022.
Jaysingpur.

(B.A. Gaikwad)
Civil Judge, Senior Division,
Jaysingpur.