

MHKO130001342018



**Order Below Exh. 21 in R.C.S. No. 94/2018.**

(Vilas Patil Vs Balwant Patil & Ors.)

1. This is an application filed by third party applicants under Order 1 Rule 10 of the Code of Civil Procedure, 1908.

2. It is submitted by third party applicants that the plaintiff has filed suit for declaration and injunction. The plaintiff has contended in the plaint that his father and defendant Nos. 2 to 4 have purchased the suit property. Predecessor of defendant Nos. 2 to 4 i.e. Dnyandev Dattu Patil died on 26/01/2008. The plaintiff and defendant Nos. 2 to 4 are legal representatives of deceased Dnyandev Patil. It is further contended by plaintiff that the suit properties are an ancestral properties of plaintiff and defendant Nos. 2 to 4 and genealogy of Dnyandev has not been specifically given in suit. Therefore, all representative of deceased Dnyandev have not been impleaded and filed this present suit. The present third party applicants are also heirs of deceased Dnyandev Patil. The deceased Dnyandev has also one daughter namely Sujata who has died on 30/10/2004 and her husband also died on 15/06/2004. The present third party applicants are their legal representatives. Therefore, present third party applicants are necessary parties. So, they filed present application to add as a defendant Nos. 5 to 7 in the suit.

3. Plaintiffs have filed their say below the same application and resisted the contents of the application. They submitted that they have not found entry of the name of present third party applicants and their predecessor. Therefore, they have not been impleaded. In the revenue record there is only entry of plaintiff and defendant Nos. 2 to 4 and it has not been challenged till today. The third party applicants are not necessary parties. So, they prayed for rejection of present application with costs.

4. Defendants filed their say and submitted that application filed by third party applicants is not legal and right. They are not necessary parties to present suit as suit is for injunction. So, she is not necessary party to present suit. Therefore, application be rejected with costs.

5. Perused the application and say filed thereon. Heard Ld. Advocate for both sides. Studied Order 1 Rule 10 of C.P.C. As it is clear under Order 1 Rule 10 (2) of the Code of Civil Procedure, the Court may at any stage of the proceeding, either upon or without the application of either party, and on such terms as may appear to the Court just, order that any party be joined as plaintiff or defendant whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit. This power is invested with the Court with legitimate object that, Court is not expected to decide rights of strangers without it being made party to the suit. Another object of this provision is to avoid the multiplicity of the proceedings. This suit is for declaration that

the mutation entry No. 3722 is not binding upon the plaintiff and also for injunction. In the present suit, the plaintiff pleaded that he and defendant Nos. 2 to 4 are only legal heirs of Dnyanu Dattu Patil who alleged to be purchased the suit property on 06/08/1954. By way of present application, the applicants submitted that Dnyanu Dattu Patil had one daughter namely Sarita and she died on 30/10/2004. They further submitted that they are the only heirs of Sarita. This application is supported with the affidavit. The plaintiff filed his say but not disputed his relationship with Sarita and present applicants. This prima facie shows the relation of Sarita and present applicants with the plaintiff and his family. Therefore, it is necessary to bring them on record for final adjudication of issue in respect of suit property, its entries. If application is rejected, it will become cause filing another suit. Therefore, in order to avoid multiplicity of proceeding, the application is needs to be allowed. Thus, I proceed to pass the following order.

**ORDER**

1. The application is allowed.
2. The plaintiff is directed to add proposed defendants as defendant Nos. 5 to 7.
3. The plaintiff shall made necessary amendment in the plaint within the 14 days and shall furnish the copy of amended plaint to the subsequently added defendants for sending suit summons.

Date-25/11/2019.  
Place-Kagal

(V. H. Khedkar)  
Civil Judge Jr.Dn., Kagal