



**ORDER BELOW EXH. 42 IN**  
**R.C.S.No. 161/2014**

**Ek Nath Keraba Patil Vs. Ananda Krishna Patil**

CNR –MHKO130006762014

**01.** This is the application of transposition submitted by the defendant No. 10 to implead her as a plaintiff No. 2 in the suit. It is submitted by her that, initially in the suit she was not made as a party by his real brother Eknath, who is sole plaintiff in the suit. However, thereafter, on the basis of objection of the defendants pertaining to the non-joinder of necessary parties, she came to be added as a defendant No. 10 in the suit. It is further submitted by her that, she and the plaintiff are the only legal-heirs of Kerba Parasu Patil and Tanabai Kerba Patil. The plaintiff and defendant No. 10 have  $\frac{1}{2}$  share each in the suit properties. No dispute is there in between plaintiff and defendant No. 10 in respect of the suit properties. However, there is a dispute in between the plaintiff and other defendants. Therefore, to transport defendant No. 10 as plaintiff No. 2 in the suit the instant application is filed.

**02.** The application is objected by the defendant. It is submitted that, the plaintiff has intentionally impleaded defendant No. 10 in the suit. This defendant No. 10 has already submitted her written statement at Exh. No. 41. Therefore, she has no right to put forward such application. Resultantly, the defendant has prayed to reject the application.

**03.** Heard both the sides.

04. This is the suit for partition. The say to this application denotes that, the relationship between the plaintiff and defendant No. 10 is not specifically denied by the objectors of this application. It is submitted by defendant No. 10 that, she has no dispute with plaintiff. But, she has dispute with the other defendants. Written statement submitted by defendant No. 10 at Exh. No. 41 demonstrate that, she has no objection to decreed the suit. However, written statement of other defendants denotes that, they have objected to the suit. Therefore, as the interest of the plaintiff and defendant No. 10 appearing the same and as other defendants have objected to the suit, by relying on the provisions of Order XXIII, Rule 1(A) of the Code of Civil Procedure, 1908. I think that, this is a fit case to transport defendant No. 10 as plaintiff No. 2 in the suit. Resultantly, this application deserves to be succeed. Hence, following order is passed:-

**ORDER**

1. The application (Exh. 42) is allowed.
2. The plaintiff to carry out necessary amendment in the plaint and submit amended copy forthwith.

Kagal.  
Date: 22/06/2022.

**(A. B. Jawale)**  
Jt. Civil Judge Jr. Division  
Kagal.