



**Sunita Shivaji Dhonukshe etc.02 Vs. Shivaji
Ishwar Dhonukshe etc.05**

CNR - MHKO130007082021

ORDER BELOW EXH. 17 IN R.C.S.No. 137/2021

1. This is the application of the plaintiff filed under Order 1 Rule 10 of the Code of Civil Procedure (In short 'CPC') with request to add Supriya Hanmant Morbale, age 28, residents of Madhyal, Tal. Kagal, Dist. Kolhapur, as the defendant No. 7 in the suit. It is submitted by the plaintiff that, the suit property bearing Gat No. 77 is alienated by the defendant No. 1 in favour of third person i.e. Supriya Morbale. This is the suit for partition and possession. Thus, the same person to whom the suit property is alienated, needs to be impleaded as a party to the suit, and hence the current application is filed.

2. The application is objected by the defendant by their say on the overleaf of this application. It is submitted that, the property in dispute is already sold before the institution of this suit. The same fact was well within knowledge of the plaintiff while instituting the suit. Even though, the plaintiff has not impleaded the purchaser as a party to the suit. The current application is filed only to harass the plaintiff. In fact, the plaintiff was having her consent to the execution of above sale-deed. Thus, on the basis of these factual aspects, the defendants have prayed to reject the application.

3. Heard learned Advocate Shri. O. S. Diwan for the plaintiff & Shri. G.V. Chaugale for the defendants.

4. It is not in dispute that, the sale-deed as pleaded by

the plaintiff is executed in favour of one Supriya Morbale of Madhyal. This suit is filed for partition & possession. As one of the suit property is transferred in the name of third person, for disposal of this suit on merit, that purchaser Morbale needs to be impleaded in the current suit as a party. Else, the suit may hit by the principle of non-joinder of necessary parties.

5. Furthermore, considering the provisions of O.1 R. 10(2) of the C.P.C, the party to the suit can be added at any stage of the proceeding. This is the stage wherein written statement of the defendant is yet to be filed. The suit is yet to be put on hearing. Thus, I have no hesitation to allow this application. However, apparently it appears that, the sale-deed in dispute is executed before the institution of this suit and therefore, for the delay caused due to this application, certain costs needs to be imposed on the plaintiff. Resultantly, following order is passed:-

ORDER

1. The application (Exh. 17) is allowed subject to cost of Rs. 200/- payable to the defendant within 7 days from today.
2. The plaintiff to add Supriya Morbale as a defendant No. 7 in the suit by making necessary amendment within statutory period.
3. The Plaintiff to supply amended copies of the plaint forthwith.

Kagal.
Date:- 02/09/2022

(A. B. Jawale)
Jt. Civil Judge Junior Division,
Kagal.