

**Order below Exh.84 in Regular Civil Suit No.8/2008.**

This is an application moved by the third party applicant named Shri. Prashantkumar Shamsundar Poshirkar under Order 1 Rule 10(2) of the Code of Civil Procedure for adding him as party to the suit.

2) Heard learned advocate Shri. A.S. Kamble for the third party applicant and learned advocate Shri. R.P. Bandiwadekar for the plaintiff. Perused the application and say.

3) The third party applicant contended that plaintiff and defendants have sold out 0-H 05-R land out of suit land Gat No.757 in his favour by executing sale deed dated 31/01/2005 and delivered possession of said area on the same day. Since then till date, third party applicant is in possession of said 0-H 05-R land. He obtained electricity in the said area. Said property bears Grampanchayat Milkat No.2257. Despite that plaintiff and defendants collusively with intention to deprive his right filed present suit. He has interest in the suit property. Hence, the application.

4) The plaintiff has contested the application by filing say to the application. Plaintiff contended that sale deed dated 31/01/2005 is unregistered, hence title cannot be passed to the third party applicant. Plaintiff has also denied the execution of sale deed in favour of third party applicant. Hence, application is liable to be rejected.

5) To substantiate his contention, the third party applicant has filed copy of unregistered sale deed vide Exh.87/4. The perusal of said sale deed revealed that it is unregistered. Therefore, in view of provision under Section 54 of the Transfer of Property Act, the sale of tangible immovable property of the value of one hundred rupees and upwards, can be made only by a registered instrument. Third party applicant alleged that he purchased immovable property worth Rs.40,000/-. Hence, in view of Section 54 of the Transfer of Property Act, the sale of 0-H 05-R land out of suit land Gat No.757 should be made only by registered instrument.

6) Admittedly, alleged sale deed dated 31/01/2005 is unregistered document. Hence, the sale should not be made in compliance of Section 54 of the Transfer of Property Act. Therefore, I cannot hold that the ownership of 05-R

land out of suit land Gat No.757 is not transferred to third party applicant. Hence, I hold that third party applicant has not acquired interest in the suit land. Therefore, I hold that application liable to be rejected. Hence, I proceed to pass the following order.

O r d e r

- 1) Application is rejected.
- 2) No order as to costs.

Dated:- 19/04/2017.

Sd/-  
( M. D. Thombare )  
Civil Judge, Jr. Dn., Chandgad.

**Order below Exh.94 in Regular Civil Suit No.8/2008.**

This is an application moved by the plaintiff under Order 1 Rule 10(2) of the Code of Civil Procedure for permission to add Sou. Minaj Sallauddin Mulla defendant in the suit.

2) Heard learned advocate R. P. Bandiwadekar for the plaintiff. Perused the application and say vide Exh.105.

3) The purchaser Sou. Minaj Sallauddin Mulla admitted the execution of sale deed dated 31/03/2015. Hence, she has right in O-H 04.5-R area out of suit land Gat No.757. As plaintiff has instituted suit for the relief of partition and separate possession along with consequential relief of perpetual injunction. Therefore, Sou. Minaj Sallauddin Mulla is the necessary party to the suit. Hence, in my considered view, in the absence of Sou. Minaj Sallauddin Mulla, suit cannot be completely and effectually adjudicated. Therefore, I hold that application deserves to be allowed. Hence, I proceed to pass the following order.

**O r d e r**

1) Application is allowed.

2) The plaintiff is directed to add Sou. Minaj Sallauddin Mulla as defendant to the suit.

3) The plaintiff is further directed to amend the title clause of the Plaint and file copy of amended plaint on or before next date.

4) Failure to comply above order on or before next date, the application shall be deemed to be rejected.

Sd/-

( M. D. Thombare )

Civil Judge, Jr. Dn., Chandgad.

Dated:- 19/04/2017.

**C E R T I F I C A T E**

I affirm that the contents of this P. D. F. file Judgment/Order is same, word to word, as per the original Judgment/Order.

Name of the Stenographer	Shri. V. L. Tadkod, L. G. Stenographer.
Name of Court	Shri. M.D. Thombare, Civil Judge, Junior Division and Judicial Magistrate, First Class, Chandgad.
Date of Dictation	19/04/2017
Judgment/Order signed by the P. O. on	19/04/2017
Judgment/Order uploaded on	19/04/2017