



RCS No. 74 /2017

CNR No MHKO19-000251-2017

ORDER BELOW EXH. 30

This is an application under order 1 Rule 10 R/w order 6 Rule 17 of C.P.C. filed by plaintiff.

2. As per plaintiff the suit is for partition and separate possession. One Bayakka Sadashiv Kumbhar is mother of defendants 8 and 9 and daughter of common ancestor Mr. Ambaji. She is alive. However, inadvertently it is pleaded that Bayakka is dead. Said pleading is erroneous and appearing in plaint due to inadvertent mistake on the part of plaintiff. Further, being daughter of common ancestor, Bayakka is necessary party to the present suit. Hence, this application.

3. The application is filed on 20/03/2018 and since then pending for say of defendants. However, despite ample opportunities were given defendants have failed to reply the application. Hence, this court has proceeded to decide the application without say of defendants.

4. Heard. Perused record. Issues are yet to be framed. Further, considering the relations between Bayakka and the parties to the suit and the nature of suit being filed for partition, this court is of view that Bayakka constitute a necessary party. Further, as per plaintiff due to oversight and inadvertent mistake he has pleaded that Bayakka is dead. Said averment is supported with the affidavit of plaintiff. Thus, considering nature of suit and facts and circumstance of the case it is

just and necessary to implead Ms. Bayakka as party defendant to instant suit. Hence, following order is passed :-

ORDER

1. Application is allowed.
2. Plaintiff to carry out necessary amendment in plaint within the period of 14 days from the date of this order.

Date: 27/11/2018

(M. H. Shitole)
C. J. J. D. Radhanagari
Kolhapur

I Affirm that, the contents of this P.D.F. file Order are same, word to word, as per the original Order.

Name of the Stenographer	U.S.Telang
Name of Court	Civil Judge, Junior Division & Judicial Magistrate, First Class, Radhanagari.
Date of Dictation	27/11/2018
Order signed by the P.O. On	27/11/2018
Order uploaded on	27/11/2018