

ORDER BELOW EXH.62 IN R.C.S.NO.58/2017 (18/11).

Plaintiff has filed application under Order 1 Rule, 10 of the Civil Procedure Code for adding Vishwnath Dadu Kamble as a defendant no.4.

2. According to him, he filed the suit for perpetual injunction in respect of CTS No 220. CTS No 219 is adjacent to CTS No 219. The proposed defendant no.4 is just adjacent to land holder CTS No 220 owner of CTS No 219. The proposed defendant on the say of present defendant trying to obstruct the possession of plaintiff. Hence, plaintiff has filed present application. Hence, prayed for allow.

3. Notice was issued to proposed defendant. According to him, only to prolong the hearing plaintiffs have filed the present application. He has not any concerned with the suit. Hence, prayed for rejection.

4. Learned Advocate Shri. T. I. Powar appearing for the plaintiffs absent when called till 4.41p.m. Defendants advocate Shri. V.Y. Patil when called till 4.45p.m. also absent. Hence, I go to decide application on merit.

5. After going through record it reveals that present suit is for perpetual injunction filed by plaintiff against defendant in respect of CTS No 220. Admittedly, CTS No 219 is just adjacent to CTS No 220. Proposed defendant is owner of CTS No 219. Plaintiffs are claiming relief of injunction in respect of CTS 220.

6. It is well settled position of law that, the person to be joined must be one whose presence is necessary as a party. What makes a person a necessary party is not merely that he has relevant evidence to give on some of the questions involved that would only make him a necessary witness and not merely that he has an interest in the correct solution of some question involved and has thought of relevant arguments to advance. The only reason which makes it necessary to make a person a party to an action is that he should be bound by the result of the action and the question to be settled therefore, must be a question in the action which cannot be effectually and completely settled unless he is a party. The line has been drawn on a wider construction of the rule between the direct interest or the legal interest and commercial interest. It is, therefore, necessary that person must be directly or legally interested in the action in the answer, i.e., he can say that the litigation may lead to a result which will affect him legally, that is, by curtailing his legal rights.

7. Considering above facts and circumstances, presence of Vishwnath Dadu Kamble is necessary for determining the real controversy between the parties. Hence, following order.

ORDER

1. Application is allowed.
2. Vishwnath Dadu Kamble @ Pappu is added as defendant no.4.
3. Plaintiff is directed to carry out amendment within 14 days from today.

Date : 19-06-2017.

Sd/-
(M. S. Todkar)
Civil Judge Junior Division,
Kale(Kherivade).

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	K. B. Chavan
Name of Court	Civil Judge, Junior Division & Judicial Magistrate, First Class, Kale (Kherivade).
Date of Dictation	19/06/2017
Order signed by the P.O. on	20/06/2017
Order uploaded on	21/06/2017