

MHLA110006802019



ORDER BELOW EXHIBIT NO.19 IN
REGULAR CIVIL SUIT NO.495/2019
MOHAN VS. STATE & ORS.

1. This is an application under Order I Rule 10 of the Code of Civil Procedure, 1908.
2. Read the application and say filed thereon. Heard the Learned Counsel for both sides.
3. This application is filed by plaintiff contending that, he has filed this suit for mandatory injunction. Plaintiff is the restricted owners of 1 H 40 R land and he and his forefathers are in possession and cultivating the same since year 1955-56. Dadarao Borsure is obstructing his possession over the suit property and also threatening the plaintiff to dispossess him. Therefore, it is necessary to add Dadarao Ganpati Borsure as defendant No.6. If the proposed defendant is added, nature of suit will not be changed and no prejudice would be caused to defendants. Hence, it is prayed to implead him as defendant No.6 in the present suit.
4. Defendants resisted the application and contended that, the application is false and baseless one. There is no prayer for perpetual injunction in the suit. Hence, it is prayed to reject the application.
5. Order I Rule 10 of the Code of Civil Procedure, 1908 provides that only a necessary or a proper party can be added in the proceedings. It is well settled that necessary party is one whose presence is necessary for complete and effective adjudication of the dispute and without whom no effective decree can be passed. Proper party is one whose presence is necessary for complete and final decision on the question involved in the proceedings.
6. Plaintiff has filed this suit for mandatory injunction. It is averred by plaintiff, defendant causing obstruction in his

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peaceful possession over the suit property. Therefore, it is seen that, the presence Dadarao Ganpati Borsure is necessary for complete and effective adjudication of the dispute. If the proposed defendant added in the present suit, nature of suit will not be changed and no prejudice would be caused to defendant. Thus, it will be just and proper to implead him in the present suit as defendant No.6.

7. In view of the above said discussion, application deserves to be allowed. Hence, I pass the following order.

ORDER

- 1) Application at Exhibit No.19 is hereby allowed.
- 2) Plaintiff is directed to implead Dadarao Ganpati Borsure in the present suit as defendant No.6 and to carry out necessary amendment in the title clause of the plaint till next date, without any fail.

Nilanga
Date:- 28/02/2025

(Smt. V. D. Bhosale)
Jt. Civil Judge, Sr. Dn., Nilanga.