



RCS. NO.08/2016
Ramkishan and another Vs Prakash
MHLA130000412016

ORDER BELOW EXH.28

This application submitted by plaintiffs under Order-I Rule-10 of the Code of Civil Procedure. It is contended that on 26/09/2017 during the pendency of the present suit defendant illegally executed registered sale deed of 75 R land from Gat No.209 at Bhandarwadi Taq, Renapur Dist. Latur in favour of one Shobha Balaji Barule. Since then she has ownership and possession over the above said property. The encroached portion of suit property now in the possession of Shobha Balaji Barule, hence she as purchaser becomes necessary party to the suit. Therefore, they prayed to allow the application and also prayed to allow the amendment in the suit accordingly.

02. Defendant filed his say at Exh.30 and resisted the application on the ground that the application is false and imaginary one. He further contended that application could not be entertained only on the basis of alienation made by defendant without supporting documents. Further the plaintiffs did not give notice to the said purchaser Shobha Barule to hand over the encroached portion. No documentary proof of in regard to sale of 75 R land. The plaintiffs are trying to prolong the matter, hence present application has been filed. There is no new cause of action. The plaintiffs took five years for amend the plaint. Lastly he prayed to

reject the application.

03. Perused application and say. No Ld. Advocates of both parties present, hence application is proceeded without argument of the parties.

04. It is pertinent to note that the present application has been filed by the plaintiffs only on the basis of contentions without supporting any documents. The fact that the party is in possession of any property does not show that he is necessary party to any suit. Necessary party is one in whose absence effective decree cannot be passed. It is seen that application does not show any detailed particulars about transaction as alleged by the plaintiffs not supported with documentary evidence to show the said alienation. Plaintiffs did not file documents in support of their said contention. Any contention without documents cannot be acceptable at this stage. Under such circumstances, I do not find any substance in the application. Hence, following order.

ORDER

- 1) Application is rejected.
- 2) Cost in cause.

SD/-

Date:- 16/09/2023

(K.K. Waghmare),
Jt. Civil Judge, Jr. Division,
Renapur.