

ORDER BELOW EXH-127 IN RCS No.52/2009**Anjanabai vs. Gajanan and others**

1. This is an application under Order 1 Rule 10 of CPC, for impleading the applicant in the suit as defendant.
2. It is contended by the applicant Sindubai Shivraj Bhosle resident of Kinala Tq. Biloli, that she is elder sister of defendant no.1 namely Gajanan Balasaheb Bhelonde and daughter of Balasaheb Gyanoba. She alleged that the suit properties are ancestral properties of Balasaheb. Names of defendant nos.1 and 2 are entered after Balasaheb. She claims her legal rights in suit properties A) and G.No.151 in suit properties B. She contended that the defendants have denied her rights in suit properties when she asked for partition.
3. She averred that, she came to know the pendency of the suit on 30-6-2015. She contended that as she is having right and interest of suit properties, it is necessary to protect her interest in the suit properties. So she filed this application for impleading her in the suit as defendant and she should be allowed to file say and be heard.
4. The defendant nos.1 and 2 filed their say at Exh.135 and admitted the relations and also her rights in the suit properties and submitted that she added in suit as she is necessary party.
5. The plaintiff filed their say at Exh.132 and objected the application. It is contended by the plaintiff that the application is against the provisions of law. She contended that the suit properties are not ancestral properties of the applicant but the same is purchased by father of applicant from Bajirao Sambhaji Bhelonde. The plaintiffs are owners of the suit properties and the same is in possession of the defendant nos.1 to 12. Hence, the suit has been

filed for possession. It is also contended that defendants have filed their written statement at Exh.22 in which they have not contended that the suit properties are ancestral properties. There is no revenue record as to the right of applicant as heir.

6. It is further contended that as per the provision of Order 1 Rule 10 of the CPC, the applicant is not necessary party to adjudicate or decide the suit on merit. In absence of applicant being party suit can be decided. The application filed by the applicant is false and filed only to prolong the matter who prayed for dismissal of the application.

7. Heard learned counsels for both the parties. Perused the record of the case. Learned counsel for applicant invited my attention to mutation entry no.210 which is produced alongwith list at Exh.9 at serial no.4. The mutation entry shows the name of applicant-Shahubai was over-written. This mutation entry is about heirship enquiry of Balasaheb Gyanoba.

8. In present case the rights of applicant in respect of suit properties cannot be denied. Though the plaintiff is claiming possession of suit properties from the defendants. There may be rights involved in the suit properties of the applicant. Opportunity of hearing to the applicant should be given. If opportunity to applicant is not given there may be possibility of multiplicity of proceeding and also violation on the rights of the applicant. The applicant is necessary party to the suit. No harm will be caused to the plaintiff if she is added as a party. But if she is not added as a party then the applicant may suffer irreparable loss and which will cause multiplicity of proceeding. Hence, I am of the view that this application deserves to be allowed. I proceed to pass following order.

ORDER

- i) Application is allowed.
- ii) The applicant namely Sindubai Shivraj Bhosle, be impleaded in suit as defendant.
- iii) The plaintiff is directed to carry out the amendment and submit copy of amended plaint.
- iv) The applicant/defendant should file her written statement on or before next date of carrying out the amendment without fail as the suit is time bound.

Date : 24-7-2015.

sd/-
(R.V. Nadagadalli)
Civil Judge Junior Division,
Naigaon (Bz).

CERTIFICATE

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

Name of the Stenographer : P.N. Karre

Court Name : Court of Civil Judge Jr.Divn., Naigaon(Bz)

Date : 24-7-2015.

Judgment signed by the Presiding Officer on : 24-7-2015.

Judgment uploaded on : 28-7-2015.

