


MHNG080000562018 	R.C.S. No.56/2018 Manish & Others Vs. Arpit & Others
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ORDER (BELOW EXH.25)

(Passed on 20.10.2023)

The plaintiffs moved present application under Order I Rule 10 of the Code of Civil Procedure (for short 'C.P.C.') for addition of parties.

2] It is contended that the plaintiffs have filed this suit for partition, declaration and injunction. Defendants No.1, 2, 4 and 5 in their written statement have stated that the original owner of suit property was Laxmichand Matadin Agrawal and he has four sons and two daughters and they are necessary parties to the suit. The plaintiffs have claimed equal share in the suit property. In the suit for partition, the defendants are also plaintiffs. The addition of proposed plaintiffs and defendants is necessary because they are Class-I legal heirs of deceased Laxmichand Agrawal. The addition of proposed parties is necessary for proper adjudication of the suit. It will not change the nature of suit. No prejudice would be caused to the defendants if the proposed parties are added in the suit. The plaintiffs will suffer irreparable loss if the application is rejected. Hence, prayed to allow the application.

3] Defendant No.6 filed his say on the application itself and

submitted that it is not having any objection for adding the parties. The proposed parties have failed to file their reply.

4] Heard the learned Advocate for the plaintiffs. He submitted as per contentions mentioned in the application. The learned Advocate for the defendants was absent when called out repeatedly for hearing, hence, the application proceeded without hearing of the defendants.

5] Order 1 Rules 1 and 3 of the C.P.C. speak that all persons may be joined in one suit as plaintiffs and defendants where -

a) any right to relief in respect of, or arising out of, the same act or transaction or series of acts or transactions is alleged to exist against such persons, whether jointly, severally, or in the alternative; and

b) if separate suits were brought against such persons, any common question of law or fact would arise.

6] The necessary party means in absence of whom, the relief claimed cannot be granted. However, the proper party means whose presence may be necessary with a view to fully adjudicate upon the matter involved in the suit. In view of Order 1 Rule 10(2) of the C.P.C., *the court may at any stage of the suit strike out or add the parties for effectually and completely adjudication of all questions involved in the suit.*

7] Perused the plaint. It shows that the plaintiffs have filed this suit for partition, declaration, and injunction. According to the plaintiffs the proposed plaintiffs and defendants are Class-I legal heirs

of deceased Laxmichand Agrawal and therefore, they are necessary parties to the suit. The suit is filed for partition of the suit property and in partition suit all necessary parties are necessary for proper adjudication of the suit and for avoiding multiplicity of proceedings. Looking to the nature of the suit, if the proposed parties are added in the suit, no prejudice would be caused to the present defendants. Rather it will help to decide suit on merits. Therefore, the application deserves to be allowed. Hence, I pass following order.

ORDER

- 1) Application (Exh.25) is allowed.
- 2) The Plaintiffs are directed to add proposed parties as plaintiffs No.4 to 6 and defendants No.7 to 12 in the suit within stipulated period.
- 3) The plaintiffs shall file amended copy of the plaint forthwith.

Date:-20.10.2023

(R.R. Sherekar)
2nd Jt. Civil Judge Junior Division,
Kamptee, Dist. Nagpur.