

ORDER BELOW EXH. 24

This application is filed by the Plaintiff under Order 1, Rule 10 read with Order 6, Rule 17 of the Code of Civil Procedure.

2. The Plaintiff respectfully submits that the present suit challenges the validity of an order issued by the Learned Tarsildar of Sauner granting a right of way through the Plaintiff's property. The Defendant has appeared in the matter and raised an objection regarding the non-joinder of necessary parties, namely those who were parties before the Learned Tarsildar in the original proceedings.

3. To address this objection, the Plaintiff seeks to implead proposed Defendants numbered 2 to 12 as parties to the present suit. These proposed Defendants are considered necessary parties for a proper and complete adjudication of the matter on its merits. Additionally, their inclusion will not cause any prejudice to the original Defendant.

4. The Plaintiff also requested permission to amend the plaint by changing all instances of "defendant" to "defendants." This suggests the addition of multiple defendants to the case.

5. The original defendant, was given ample opportunity to

respond but did not ("failed to file any say"). Therefore, I proceed to decide the application, on the merits.

6. The applicant (plaintiff) claiming that this suit challenges the validity of an order issued by the Learned Tarsildar granting a right of way to the defendant. However, upon perusal the plaint, particularly the reading of its content and the prayer clause, it appears the plaintiff does not directly contest the validity of any order by a Revenue Officer. Instead, prayer clauses 1 to 5 of the plaint seem to focus on seeking a declaration and injunction against the defendant. This suggests the plaintiff wants the court to declare their ownership of the disputed way and prevent the defendant from using it.

7. However on perusal of the pleadings of both parties, it becomes evident that there is an existing dispute regarding the disputed way. The plaintiff mentions a potentially conflicting order by the Tarsildar in Paragraph 5, while the defendant acknowledges their participation with other cultivators in a prior proceeding concerning the way. The current application appears to be a response to the defendant's objection regarding the non-joinder of necessary parties. Both parties seem to agree that other cultivators have an interest in the disputed way.

8. Considering the potential impact on these cultivators and for a fair adjudication of the matter, joining them as parties to the

suit seems appropriate. This will allow all parties with a stake in the outcome to be heard, leading to a more complete resolution of the real controversy. Therefore, based on the arguments presented and the need for a comprehensive adjudication, the present application deserves to be allowed.

ORDER

- A] The application at **Ex 24** is allowed as under
- B] The applicant/Ori. Plaintiff is permitted to carry out the necessary amendment by providing the copy of amended plaint at time of amendment.
- C] Upon compliance with the above order by the plaintiff, summons be issued to the newly added defendants.

Saoner
Date:- 23.04.2024

(Santosh R. Bharad)
Jt. Civil Judge (J.D.),
Saoner