

ORDER BELOW EXH. 29

Read the application, say and record. Heard. Smt. Vimaltai Ramesh Dhore has filed this application under Order 1 Rule 10 of C.P.C. requesting to be impleaded as defendant No. 2 on the ground that one Spl. C.S. 16/2017 filed by her against plaintiff and defendant in this suit, is pending with reference to the same property. She is in possession of the property. Therefore her presence is necessary in this suit.

2] Plaintiff has opposed the application by filing reply vide Exh. 32. Plaintiff has denied the averments in this application except the fact that Spl. C.S.No. 16/2017 is pending. Plaintiff submits that subject matter of both the suits are different. Applicant Vimaltai is an encroacher and is in illegal possession of that property. She has no concern with the present suit. This application is filed just to harass the plaintiff and to prolong the present matter. Application is barred by limitation.

3] Question before me is as to whether applicant needs to be added as party in this suit ?

4] In the above application there is specific reference of Spl. C.S.No. 16/2017. It is at Sr.No. 51 on today's board. I have gone through its record. It shows that present applicant Vimaltai has filed it in the year 2017 against present plaintiff and defendant. 0.50 H.R. of Survey No. 674 of village Bela is the suit property in it. Four boundaries of it are mentioned in schedule of property which is part of the plaint in that suit.

5] In the present suit land bearing S.No. 674/1 to the extent of 0.67 H.R. of village Bela is the suit property. Four boundaries of it are mentioned in Paragraph No. 2 of the plaint. Perusal of the four boundaries of the suit property in Spl. C.S.No. 16/2017 and of the suit property in present suit, show that such four boundaries are same. Thus prima facie it appears that suit properties in both the suits are same.

6] In Spl.C.S.No. 16/2017, present applicant as a plaintiff has prayed for declaration that she is owner of that property by way of adverse possession. She has also prayed for declaration that the registered sale deed of date 14.06.2016 executed by present defendant in favour of present plaintiff is not binding on her. In the present suit also, plaintiff has sought for declaration that above registered sale deed of date 14.06.2016, is null and void. Thus it appears that there is similarity of prayer also. Suit of the applicant is prior to this suit. Therefore in the above background, I find that presence of applicant as defendant in this suit, is necessary for just and effective decision of this suit. Therefore, I pass following order :-

ORDER

Application stands allowed with direction to the plaintiff to add the applicant as defendant No. 2 in this suit.

Umred.
Dated: 26.11.2024.

[S. G. Landge]
Civil Judge Sr. Dn., Umred,
Dist. Nagpur.

<u>Certificate</u>
"I affirm that the contents of this P.D.F. file are word to word as per original".
Name of Stenographer : Mrs. Kavita M. Balpande, Stenographer (Gr.I)