

Reg.Civil Suit No.03/2012
Mahesh -vs- Rokhadu & Ors**COMMON ORDER ON EXH.30 & 34**

1 These two applications are inter linked with each other and needs to be decided together. Hence, I am passing common order in both applications. In a suit for specific performance of contract, the plaintiff has filed the present applications at Exh.30 and 34 for adding of the parties and amendment vide Order 1 Rule 10 and Order 6 Rule 17 of the Code of Civil Procedure contending therein that, during the pendency of the present suit, defendants have created third party interest in the suit scheduled property. Therefore, according to plaintiff, it is necessary to add the said purchaser in the present suit and to carry out the consequential proposed amendment.

2 The defendants are absent in spite of due service of suit summons. I have heard Advocate Mr.Nakade for the plaintiff and have also perused the record. Following points arise for my determination and I record my findings thereon with reasons as under :

POINTS	FINDINGS
1. Whether it is expedient to add the purchasers pendent lite as as prayed for ?	... In the affirmative
2. Whether the proposed amendment is necessary to decide the real controversy between the parties?	... In the affirmative
3. What order ?	... As per final order.

: R E A S O N S :**As To Point No.1 & 2 :-**

4 Both the points are interlinked with each other. Therefore, they need to be discussed together. The plaintiff has placed on record certified copy of 7/12 extract in the name of proposed defendant Mr.Sachin Bhaurao Nagdeve. On perusal thereof it can be seen that, his name has been mutated on the basis of sale deed on 23.3.2009 in respect of the suit scheduled property. Record shows that, the present suit was originally filed in the Court of Hon'ble Civil Judge, Sr.Dn., Nagpur in the year 2008. Therefore, the alleged sale deed is effected during the pendency of the present suit. Hence, to avoid multiplicity of proceedings and further complications, it is necessary to add the proposed defendant in the present suit and allow the amendment necessitated by the same. Hence, I record my findings in the affirmative as to point no.1 & 2 and in reply to point no.3, I proceed to pass the following order.

O R D E R

1. Application at Exh. 30 & 34 are allowed with costs.
2. Plaintiff is directed to carry out the proposed amendment on or before next date.
3. Plaintiff is also directed to place on record copies of plaint and documents of their reliance to be served on the proposed defendant.
4. Original order be kept with application at Exh.No.30 and its copy be kept with other application.
5. Parties to take the note and do the needful.

Date:30/12/2014

(S.R.Nikam)
Jt.Civil Judge,(Jr.Dn.)
Kuhi

