

**Order Below Exh. No.52**  
(Order passed on 21.08.2018)

1] This is an application by plaintiff under order 1 Rule 10 of the Code of Civil Procedure for addition of proposed defendant in the array of defendants.

2] It is the contention of plaintiff that he has filed suit for partition and separate possession. Defendants appeared and filed their written statement and therein they raised objection of non-joinder of necessary party. Therefore, plaintiff wants to add proposed defendant in the array of defendants. According to him, the proposed defendant is co-sharer. Therefore, she is necessary party. Her presence is necessary or proper adjudication. If application is allowed no prejudice would be caused to the defendants. Hence, this application.

3] The defendants strongly opposed the application and by filing reply they contended that this application is filed at belated stage after the laps of 4 and half years from the filing of written statement. Hence, they prayed to reject this application.

4] Perused the record, heard both sides.

5] On perusal of record it reveals that, the plaintiff has filed suit for declaration, partition and separate possession. Defendants not disputed that the proposed defendant is co-sharer. Therefore, she has interest in the

suit property. Hence, the proposed defendant is necessary party to decide the real controversy between the parties. As it is clear under Order 1, Rule 10 (2) of the Code of Civil Procedure, the Court may at any stage of the proceeding, either upon or without the application of either party, and on such terms as may appear to the Court just, order that any party be joined as plaintiff or defendant whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit.

6] This power is invested with the Court with legitimate object that, Court is not expected to decide rights of strangers without it being made party to the suit. Another object of this provision is to avoid the multiplicity of the proceedings. Thus, I am of the opinion that presence of the proposed defendant is necessary party to finally adjudicate the rights of the parties and to have a full and final decision of this litigation. Thus, I proceed to pass the following order.

**ORDER**

1. The application (Exh.52) is allowed.
2. The proposed defendant be added in the array of defendants.
3. The plaintiff is directed to carry out amendment within stipulated time.

Dated:-21/08/2018

( D.B. Gutte)  
Civil Judge Junior Division  
Kuhi.

**CERTIFICATE**

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

Name of Stenographer : Pravin T. Mandale