

ORDER BELOW EXH. 58
(Passed on 10-12-2018)

This is an application moved by the plaintiff under O-1 Rule 10 for addition of parties and amendment of the plaint. Defendant opposed the application by filing say thereon. Notice issued to proposed defendant No. 4. He appeared and filed his reply below Eh. 64.

2. Having heard, the learned counsels for both sides and the counsel of proposed defendant No. 4. Shri P.B. Bante, learned counsel for the plaintiff, submitted that it is necessary to add the proposed defendant No. 4 as a party, as the defendant No. 1 to 3 pleaded in their W.S. the fact that the defendant No. 1 has sold her share of suit property to proposed defendant Vivek Shankar Gajbhiye. It is submitted that for effective and complete adjudication of controversy it is necessary to add the proposed defendant as a party. Lastly, he prayed to allow the application. Shri M.V. Yerpude learned counsel for the defendant No. 1 to 3 submitted that application Exh 52 not pressed by the plaintiff and on the same ground this application is filed by the plaintiff which is not permissible under law. It is submitted that after the long period i.e. at about 6 years only to fill up the lacuna the plaintiff has filed the present application which is liable to be rejected.

3. Adv. K.R. Gade, learned counsel for the proposed defendant, opposed the application. She submitted that the application is not tenable. Lastly, she prayed to reject the application. Read the application, say and record of the case. It is seen that the pleading of the defendant shows that the defendant No. 1 already sold her share to proposed defendant No. 4 Vivek Shankar Gajbhiye. Therefore, I am of the view that, it is necessary to heard the proposed defendant No. 4 to adjudicate the controversy between the parties. Though, the application Exh. 52 was not pressed by the plaintiff. But it is not came on record as to why the said application not pressed by the plaintiff. Now plaintiff to add the proposed defendant No. 4 as a party to the suit. As the proposed defendant No. 4 is the purchaser of the suit property, it is necessary to add him as a party to the suit, for effective and complete adjudication of the controversy between the parties. Hence, I pass the following order.

ORDER

i) The application is allowed subject to cost of Rs. 300/- to be paid

to the defendant No. 1 to 3.

- ii) The plaintiff is permitted to add the proposed defendant No. 4 as a party to the suit and carry out the necessary amendment within two weeks.

Date 10-12-2018.
Ramtek.

(M.S. Banchare)
Jt. Civil Judge Jr. Dn, Ramtek

DISTRICT COURT
NAGPUR