

IN THE COURT OF CIVIL JUDGE SENIOR DIVISION, RAMTEK.

Regular Civil Suit No.81/2023

(Old RCS No. 137/2023)

Ismail Issac vs The Collector and ors.

ORDER BELOW EXH. 34

(Passed on 4th day of July, 2024)

The plaintiff has filed an application under Order-1 R-10(2) of the Code of Civil Procedure 1908 for impleading proposed party i.e. President of Mahatma Gandhi Smruti Samity, Tah.-Parsioni, District-Nagpur. Ld. Advocate of plaintiff has argued that proposed party is necessary party for the suit, as suit is for declaration and removal of encroachment which is adjacent to the Mahatma Gandhi Statue. Ld. Advocate for plaintiff has further submitted that if proposed amendment is allowed, nature of suit will not be changed.

02. On the other hand defendant no. 5 has put his strong objection on the ground that there is no reason in the application as to why proposed party has not been made a party at the earliest, therefore, present application is nothing but the prolonging of the matter therefore, it may be rejected.

03. Heard both sides. Considering the nature of the suit particularly relief that removal of encroachment adjacent to the Mahatma Gandhi Statue, in my opinion, proposed party is proper party to the suit. Therefore, in my opinion, proposed party is required to be added as a defendant no. 6. If proposed amendment is allowed, nature of suit will not be changed and no prejudice would be caused to the other defendants. Thus, present application needs to be allowed. Hence, I proceed to pass following order-

ORDER

1. Application is allowed.
2. The plaintiff is directed to carry out necessary amendment in the plaint and file amended copy of the plaint on record.

Ramtek.
Date : 04.07.2024

[S.M. Sarode]
Civil Judge Senior Division,
Ramtek.