

**M.J.C. No.14/2016
Ratiram & other Vs.
Devkabai & another**

ORDER BELOW EXH.10
(Passed on 09th November, 2017)

By way of this application, the Non-applicants have prayed to delete the name of Non-applicant No.4 on the ground that in the entire application, the applicants have not made allegation against the Non-applicant No.4 and therefore, according to the Non-applicants, the name of the Non-applicant is required to be deleted from the array of the Non-applicants.

2. The applicant opposed the application on the ground that the Non-applicant No.4 is necessary party for effective and fair adjudication of this proceeding. Though the applicants have admitted that they have not sought any action against the Non-applicant No.4 at this stage, yet during the proceeding of the case, the Non-applicant No.4 is necessary party.

3. The application is pending for hearing since last 7 months. In spite of giving ample opportunity to the Non-applicants, neither the Non-applicants nor their advocate appeared before the Court. Even today, they are absent. Hence, the application is decided on merit.

4. Having perused the record, it is reflected that the applicants initiated the proceeding under **Order 39 Rule 2 (A) of C.P.C.** against the Non-applicants for beach of temporary injunction. It is pertinent to note here that the Learned Predecessor of this Court passed the order in RCS. No.55/2013 on Exh.No.15 on 22.08.2014 and all the Non-applicants are restrained from creating third party interest by alienating or other wise suit land till the decision of the suit. Thus this speaking order is sufficient to come to the conclusion that all the Non-applicants are ordered to follow the direction. Even

if the applicants have stated that the Non-applicant No.4 did not execute the registered sale-deed, still all the Non-applicants are under obligation to follow the aforesaid order. In such circumstances, in my opinion, unless and until the order passed by the Learned Predecessor of this Court on Exh.No.15 on dated 22.08.2014 is vacated, the Non-applicant No.4 cannot be deleted from the array of the Non-applicants at this juncture. So also, the trial is yet to be commenced. In such circumstances, unless and until the applicants are given a chance to lead evidence in respect of the subject matter, the Non-applicant No.4 cannot be escaped at the premature stage. Accordingly, I pass the following order.

Order

The application stands rejected.

Dated :-09/11/2017

(Sujitkumar C. Taide)
Civil Judge Jr. Dn., Ramtek

CERTIFICATE

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

Name of Stenographer

:- G. S. Dongardive