

MHNG140004002017



RCS NO.28/2017
KAMALA VS. KOTHIRAM

ORDER PASSED BELOW EXH.39
(PASSED ON 24th DAY OF APRIL, 2025)

1) The plaintiff moved this application under Order 1 Rule 10 of the Code of Civil Procedure, 1908 for the addition of parties. The plaintiff submit that the present suit is for the partition and separate possession. During the pendency of the suit the defendant with mala-fide intention to grab the share of the plaintiff, fabricated the false document, seperated the 7/12 extract of the suit property and illegally mutate their names on 7/12 extract and created the third party interest by execution of the Sale Deed to Suresh Pandurang Deshmukh on 07/10/2020.

2) This fact recently came to the knowledge of the plaintiff hence, the plaintiff moved this application to add Suresh Pandurang Deshmukh as a defendant. The defendant filed his say and strongly opposed the application with submission that the plaintiff are challenging the Sale Deed of the year 2020 in the year 2025. They have not filed any application for condonation of delay by filing this application for addition of party hence, application is hopeeslly barred by the limitation and same may kindly be rejected with the cost of Rs.20,000/- (Rupees Twenty Thousand Only).

3) Heard Learned Advocate for the plaintiff and Learned Advocate for the defendant.

4) Learned Advocate for the plaintiff submitted that during the pendency of the suit the plaintiff has executed the Sale Deed of the suit property Survey No.414 to the proposed defendant Suresh Pandurang Deshmukh. The defendant filed his written statement on 29/01/2018 but the fact of the execution of the Sale Deed has not been mentioned in the written statement. Subsequently, the plaintiff came to know about the alleged Sale Deed hence, to decide the matter on merits, the proposed defendant is necessary party in this suit. Hence, the application be allowed.

5) Learned Advocate for the Defendant argued that the plaintiff wants to challenge the Sale Deed beyond the period of limitation hence, it is not permissible in law therefore, the application be rejected.

6) The defendant has not denied the execution of the alleged Sale Deed. The nature of the suit is for the partition and separate possession of the ancestral property. It is a subsequent event happened after the filing of the suit and during the pendency of the suit. If Suresh Pandurang Deshmukh added as defendant no prejudice will be caused to the present defendant. Hence, to the adjudicate the matter on merits and for final adjudication it is necessary to add proposed defendant in the proceeding.

7) As considering all these facts and circumstances I pass the following Order :-

ORDER

1. Application Exh.39 is hereby allowed.
2. Plaintiff to add Suresh Pandurang Deshmukh as defendant No.2 in the suit and to carry out the proposed amendment within 14 days from the date of this order and file the amended copy on record.

Parseoni
Dated :- 24/04/2025

(G.O. Wankhade)
Civil Judge Junior Division,
Parseoni