

MHNS130000782019



R.C.S.No.03/2019

Baburao VS.uttamrao

ORDER BELOW EXH.34

The present application is moved by the plaintiffs for adding the parties as plaintiff and defendants vide Order I Rule 10 of C.P.C. The application is opposed by the defendant No.1 by filing his say at Exh.38.

2] Perused the application and say. Heard learned advocates of both parties. It is contended that during pendency of the suit, on 20/11/2020 plaintiff no.2 sold 50 R land to Shobha Vishnupant Kokate, 30R land to Balasaheb Jagannath Jadhav vide sale-deed. Further, plaintiff no.1 transferred 2 H land (one hector each) to plaintiff no.2 and his wife in March, 2021. Thereafter, on 06/09/2023 plaintiff no.2 sold 40 R land to Santosh Yadav Shevkar, Satish Yadav Shevkar and Chetan Yadav Shevkar vide registered sale-deed. Learned advocate Shri. S.M.Shinde appearing for plaintiff submitted that, he was not told by the party about such transfer as the plaintiffs were not aware of law. He came to know about the transfer of suit property during cross examination of the plaintiffs. He further submitted that the suit property is now standing in the name of wife of plaintiff no.2 and other purchasers. Therefore, they are necessary parties. Hence, he prayed for adding wife of plaintiff no.2 as plaintiff no.3 and other subsequent purchaser as party defendants.

3] On the other hand, Ld. Advocate Shri. R.V Kolhe

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appearing for defendant No.1 submitted that the plaintiffs had encroached upon the land of the defendant to the extent of 14R and the same has been declared by T.I.L.R, Niphad through measurement. Plaintiffs did not hand over the possession of said encroached portion to the defendant, therefore defendant applied for recovery of possession in encroachment case no. 78/2016. The case was decided on 21/09/2018 in favor of the defendant and thereby S.D.O, Niphad ordered plaintiffs to hand over the possession of 14R land to defendant. To avoid the implementation of said order plaintiffs instituted this suit. During pendency of the suit, they themselves have transferred the suit property to third party and by this application seeking for addition of parties. The plaintiffs thereby trying to prolong the matter. Hence, he prayed for rejection of application.

4] It is pertinent to note that as per the case of the plaintiffs, plaintiff no.1 has transferred certain portion of suit property by way partition to wife of plaintiff No.2 and plaintiff no.2 has sold remaining portion of suit property to Shobha Vishnupant Kokate, Balasaheb Jagannath Jadhav, Santosh Yadav Shevkar, Satish Yadav Shevkar and Chetan Yadav Shevkar vide registered sale-deed. Therefore, they have interest in the suit property and the decree of the suit will definitely affect their rights in the suit property. Therefore, they are necessary parties. The application deserves to be allowed. Accordingly, I pass following order;

ORDER

- 1) The application at Exh.34 is allowed.

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- 2) The plaintiffs are allowed to array Sarika Jayant Wagh as plaintiff no.3, Shobha Vishnupant Kokate, Balasaheb Jagannath Jadhav, Santosh Yadav Shevkar, Satish Yadav Shevkar and Chetan Yadav Shevkar as defendants.
- 3) Plaint be amended accordingly.
- 4) Cost in main cause.

Date :- 19/07/2025
Place :- Pimpalgaon (B).

Sd/-xxx
(V. W. Khendad)
2nd Jt.Civil Judicial JuniorDivision
Pimpalgaon (B)

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