

**Regular Civil Suit No. 12/2014
CNR:MHNS13-000119-2014**

**Order Passed Below Exh. 42
Prakash and others Vs. Manisha and others**

Read the application and say filed by the plaintiff. Perused record. Heard learned Adv. Shri. U. N. Chikhale for plaintiffs. Defendants no. 1 and 2 and their learned advocate are absent when called repeatedly. Hence, the application proceeded without their argument.

2] It is contended by defendants no. 1 and 2 that, present suit is filed for declaration, partition and other reliefs in respect of joint family properties of plaintiffs and defendants. These defendants filed their written statement and contended that, plaintiffs ought to have include all the joint family properties in the present suit. However, plaintiffs have not included the joint family properties at village Pimpri Saiyyad and the house property at village Aadgaon. However, the issue regarding the bar of non-joinder of necessary properties is not mentioned while framing issues at Exh. 36. Hence, he prayed to frame said additional issue.

3] Application is resisted by filing say on the overleaf of this application. It is submitted on behalf of plaintiffs that, the application is false. All the necessary properties are included in the suit. Present application is filed to delay the proceeding and lastly he prayed to reject the application.

4] It is significant to note that, the present suit is for declaration, partition, separate possession and for perpetual injunction.

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Perusal of record shows that, defendants no. 1 and 2 have mentioned about the properties of joint family of plaintiffs and defendants at village Pimpri Saiyyad and house property at village Aadgaon in their written statement at Exh. 28. It also appears that, defendants no. 1 and 2 have also filed on record the 7/12 extracts of Gat no. 982, 980 and 981 situated at village Pimpri Saiyyad. Said 7/12 extracts prima facie shows the names of plaintiffs. Considering the nature of suit and in the interest of justice, it would be worthwhile to allow the present application for the purpose of determining the real question in controversy between the parties. Therefore, I pass the following order,

ORDER

- 1] Application (Exh. 42) is allowed.
- 2] Parties to note.

Date : 03/07/2018

sdxxx
(S. N. Hurgat)
Joint Civil Judge Junior Division,
Pimpalgaon (B)

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**Order Passed Below Exh. 1
Prakash and others Vs. Manisha and others**

In view of order passed below Exh. 42 dated 03/07/2018,
following additional issue is framed below Exh. 36.

Additional Issue

8A] Whether the suit is barred by principle of non-joinder of necessary
properties ?

Date : 03/07/2018

sdxxx
(S. N. Hurgat)
Joint Civil Judge Junior Division,
Pimpalgaon (B)

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