

**Order below Exh.36 in R.C.S. No. 167/2013**

This is an application under Order I Rule 10 of the Code of Civil Procedure. The present application has been filed by Smt.Hirabai Prabhakar Jagtap, Shri.Kailas Prabhakar Jagtap, Sau. Nanda Kacharu Zankar, Sau.Mangal Narendra Kunde under Order 1 Rule 10(2) of the Code of Civil Procedure, 1908 for impleaded them as defendants in the present suit.

**Applicants case in brief :**

2. Applicants have submitted that they are necessary party in the suit as the genealogy filed by the plaintiff in the plaint included the name of the applicants. The plaintiff is daughter of applicant no.1 and sister of applicant no.2 to 4. Their names are available on revenue records of the suit property. The suit is for declaration and injunction. They have also right over the suit property, but before filing of the suit they have not added as a party. If they are not impleaded as a party in a suit, they will suffer irreparable loss which cannot be compensated. Therefore, they must be added in the suit as a defendants.

**Other side case in brief :**

3. The Plaintiff has not objected the application. Defendants have submitted that suit property is nowhere related to applicants. Prayer of applicants cannot be considered in present suit. The applicants have no right to be added them as a party to the suit. Hence, this application be rejected.

4. The points for determination along with finding and the reasons thereon are as under :

<b><u>Points</u></b>	<b><u>findings</u></b>
1. Whether the presence of applicants are necessary in order to enable the court effectually and completely adjudicate all the questions involved in the suit ?	..Yes.
2. What order ?	..Application is allowed.

## REASONS

### POINT NO.1 AND 2 :

5. Read the plaint and written statement. Perused the application and say filed by other side. Heard both the learned advocates.

6. The Plaintiff has filed the suit for injunction and declaration. Considering the nature of the suit and relation between the parties it is just to proper that if applicants would not added in the suit as a party, they will deprived from the opportunity to be heard. The dispute between the plaintiff and defendants relating to suit property which is ancestral property of common ancestor of the plaintiff and applicants. Admittedly, whatever may be the result of the suit will affect the rights and interest of applicants relating the suit property.

7. Considering the circumstances to adjudicate the matter in controversy on merit the application needs to be allowed in the interest of justice. Hence, I answer point No.1 in affirmative and in answer to point No.2, I pass the following order.

## ORDER

1. The application at Exh. 36 is hereby allowed.
2. The plaintiff is directed to add applicants as defendants in the suit and do necessary amendment within 2 weeks and provide amended copies, failing which the suit shall stand dismissed with costs.

Date : 04.03.2017  
Place: Igatpuri

( L.K.Sapkal )  
2<sup>nd</sup> Jt.Civil Judge Junior Division,  
Igatpuri