

MHOS100010122020



Reg.Civil Suit No.443/2020
(CNR No.MHOS100010122020)

Order below Exh.24

01. The third party applicant Kondabai Sakharam More has filed this application under Order I Rule 10 of The Code of Civil Procedure for adding himself as a plaintiff no. 15 in the suit.

02. The third party applicant submitted that, plaintiff Sitabai and others have instituted the suit for the relief of perpetual injunction alongwith for carrying out measurement through TILR Washi pertaining to the land Sy. No. 1/e admeasuring area 80 R situated within the jurisdiction of the village Pardi, Tal. Washi, Dist. Osmanabad.

03. She further submitted that she is one of the co-sharer in land Sy. No. 1/e, situated at village Pardi, therefore she is the necessary party and therefore she prayed to array her as the plaintiff no. 15.

04. The say of the plaintiff and defendants was called. Only defendant no. 1 has filed his say and he denied the contentions made in the application. He has submitted that, for lingering the matter the third party has filed this application.

Hence he prayed to reject the application.

07. Heard arguments of both the sides at length. Considering rival contentions, following points arose for my determination. I have reproduced the same along with my findings on each of them hereinafter.

<u>Sr. No.</u>	<u>Points</u>	<u>Findings</u>
1.	Whether presence of third party applicant is necessary in the present suit ?	<u>In the affirmative</u>
2.	Whether the third party applicant is necessary party to the suit ?	<u>In the affirmative</u>
3.	Whether third party applicant can be added as party to the suit ?	<u>In the affirmative</u>
4.	What order ?	<u>As per final order</u>

REASONS

AS TO POINT NO.1 TO 4 -

08. The point No.1 to 4 are co-related to each other, hence I have taken up them together for discussion.

09. Order I Rule 10(2) of The Code of Civil Procedure reads as under -

Court may strike out or add parties -

The Court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Court to be just,

order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added.

10. The plaintiff Sitabai and others have instituted the suit for the relief of perpetual injunction alongwith for carrying out measurement through TILR Washi pertaining to the land Sy. No. 1/e admeasuring area 80 R situated within the jurisdiction of the village Pardi, Tal. Washi, Dist. Osmanabad. The name of the third party is existing on the 7/12 extract as the co-sharer, therefore she is the necessary party to the suit.

11. In my view, presence of third party is necessary. Hence, to avoid the multiplicity of proceeding and to decide the matter on merit, it is necessary to add third party as party to the suit by arraying her as plaintiff no. 15. Hence, I answer point No.1 to 3 in affirmative and in view to answer issue No.4, I pass following order -

ORDER

- 1) The third party application is hereby allowed subject to costs of Rs.500/-, it be paid to the defendant no. 1.
- 2) The plaintiff is hereby directed to add the third

party applicant – Kondabai Sakharam More as party to the suit by arraying him as plaintiff no. 15.

- 3) The plaintiff is hereby directed to carry out consequential amendment and submit amended copy of the plaint.
- 4) As third party sue-motto appeared, summons/notice is waived.

Sd/-

(J. S. Gaikwad)

Civil Judge Junior Division,
Washi.

Date : 12/01/2024

CERTIFICATE

I affirm that, the contents of this P.D.F file Judgment / order are same, word to word, as per the original Judgment/order.

Name of Stenographer	---	A.A. Joshi, Stenographer, (Grade-III)
Court	---	Civil Court,Washi,Tal.Washi, Dist.Osmanabad
Date	---	12-01-2024
Judgment signed by the presiding officer on	---	03-02-2024
Judgment uploaded on	---	05-02-2024

(CNR No.**MHOS100010122020**)

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(R.C.S.No.443/2020 – Order below Exh.24)