

Order below Exh.7.

The plaintiff has filed an application for deleting the defendant no.1 M/s. M.J. Petal Share and Stock brokers as a defendant no.1.

2. It is contended by the plaintiff that in the year 2006 she has purchased shares of defendant no.2 Titan Company Ltd. Accordingly share certificate issued in her name. Thereafter in the 2007 dividend in the form of 1200 shares issued in her favour. On 20/11/2019 the plaintiff has issued the letter to defendant no.2 that she has lodged the original share certificate and requested to issue a duplicate in her favour. On 02/12/2019 she has received a letter from defendant no.2 to appointed RTA. It has been mentioned in that certificate that the said share were lodged through defendant no.1. Shares has been put on hold. On 29/12/2021 she has been again issued a letter. But her claimed has been rejected by defendant no.2. Therefore, plaintiff has filed the present suit. Defendant no.1 is not the necessary party. In absence of defendant no.1 it will not effect the suit or the relief claimed by the plaintiff.

3. Perused the application and heard the learned advocate for the plaintiff. On perusal of record it seems that defendant no.1 is acted only as a stock brokerage firm. Defendant no.1 is neither in possession nor the issuing authority of the share. She has not lodged the share certificate. She is the only authorized person and folio No.TWM 003332. The unknown person who do not have the authority has lodged the share through defendant no.1. Therefore, he is not the necessary party because he is not the party to the contract.

4. In support of her contention she has relied on **Kasturi Vs.**

Iyyamperumal and Ors (2005) 6 SCC 733. The Hon'ble Apex Court held that necessary party is one against whom there must be right to some relief.

5. In view of above cited case the actual facts of the case it appears that defendant no.1 is neither the contracting party with the plaintiff nor the authority who has issued the share. Hence, I proceed to pass the following order :

Order

- 1] Defendant no.1 is been struck as a defendant no.1.
- 2] Issue notice to defendant no.2.
- 3] Plaintiff is directed to carry out necessary amendment till next date.

Dated : 01.03.2023

Sd/-xxx
(N.R. Gajbhiye)
Jt. Civil Judge Junior Division,
Pimpri, Pune.