



ORDER BELOW EXH.44 IN R.C.S.No. 149/2023

Sheela Konde-Deshmukh Vs. Sindhubai Jagtap

1. The present application is filed by plaintiff under Order 1 Rule 10 of Civil Procedure Code for addition of new parties to the suit.

2. The present suit filed by plaintiff seeking perpetual and mandatory injunction against defendant Sindhubai Jagtap and Pravin Jagtap during pendency, on exh. 5, the court passed order and ad-interim ex-parte prayer of plaintiff against Defendant No. 1 & 2 was granted. They were restrain from causing obstruction, change to possession or title of suit property. On pending hearing of exhibit 5 order, in between other applications were decided.

3. According to plaintiff, during pendency, the Defendant No.1 & 2 by giving false statements to Revenue Authorities brought in existence Mutation Entry No. 2752 and thereby added names of Smt. Jayashree Sharad Marne and Ananta Madhukar Konde of 7/12 extract of suit property. The said act Defendant No. 1 & 2 was Lis pendence but due to this, now, the above name persons need to be brought on record as their names are appearing on 7/12 extract of suit property. Hence plaintiff filed the present application under Order 1 Rule 10 of Civil Procedure Code and prayed to allow the same.

4. The Court issued notice to proposed defendants they appeared and filed their say at exh. 53. According to them, proposed defendants have separate right with regard to suit property. Defendant

No. 3 & 4 have received those rights on the basis of final decree partition execution proceeding passed before Tehsil Bhore. Proposed defendants have not received any rights from Defendant No. 1 & 2. Therefore the application has no base it be rejected.

5. Heard both sides. Perused the application and say filed along with document annexed. *Civil Procedure Code Order 1 Rule 10 is for addition of or striking out the parties where it is discretion given to the court that at any stage of the proceeding upon application or without it court may order any party improperly joined as plaintiff or defendant to be struck out or court may order any party who ought to have been joined whether as plaintiff or defendant the Court may direct to add the same.*

6. In present case indeed the plaintiffs have not carried out any amendment in their pleadings. Showcasing the alleged act of Defendant No. 1 & 2 in favour of proposed Defendant No. 3 & 4 yet from perusal of the application and say received proposed defendant have agitated rights regarding the suit property. In such situation as the suit is for simplicitor injunction in which ad-interim protection was granted to plaintiff and during pendency at revenue side mutation entries were brought in existence, therefore I find that proposed parties are necessary parties for deciding the present suit on merit. As far as the technicality of first plead then lead goes plaintiff is directed to take necessary steps of amendment. With this reasoning. I pass following order :-

ORDER

1. Application is allowed.
2. Proposed parties be added as Defendant No. 3 & 4 to the suit.

3. Plaintiff to take necessary steps for amendment.
4. Cost in cause.

Bhor
Date. 01.04.2025.

(N.K.Nagargoje)
Civil Judge J.D., Bhor

CERTIFICATE

"I affirm that the contents of this P.D.F file Order are same word for word as per original Order

Name of the Steno	–	Shri. A.D.More
Court Name	–	Hon'ble Smt. N.K.Nagargoje
Date of Order/Judgment	–	01/04/2025
Date of Sign Order/Judgment–		02/04/2025
Order uploaded on	–	03/04/2025