

Reg. Civil Suit No.30 of 1997
ORDER PASSED BELOW EXH.299.
(Date : 25.02.2026)

The present application has been preferred by the third party applicant namely, Ashok Ramchandra Pote for including him as a party in the suit as per Order I Rule 10 of the Code of Civil Procedure. The plaintiffs by filing their say resisted the application.

2. It is the contention of the applicant that, he has purchased some portion out of suit Gat no.157 (new gat no.84) from Baban Gajanan Khomane by registered sale-deed on 28.12.1999. It is observed by the applicant that, earlier plaintiff and defendant had compromised this suit in collusion and there can be settlement between original plaintiff and defendants. If the settlement arrived, this will affect the right of him. The suit filed by him against present plaintiff and others bearing RCS No. 155/2018 is pending. The decision of present suit will affect the suit pending between present plaintiff and him. It is necessary to add him as a party in the suit. Therefore, to adjudicate the dispute on merit and protect his rights, he need to be added in the suit. On the other hand, plaintiff contended that, the third party applicant has purchased the property during the pendency of the suit. As per Section 52 of the Transfer of Property Act, third party is not necessary party. Therefore, the application be rejected.

3. Perused. Heard. It appears that, present suit has been filed for declaration and injunction in respect of suit properties, which includes Gat No.157. The plaintiffs have sought reliefs that plaintiff nos.1 to 4 are owners of suit gat no.11, 57, 75, 152, 157, whereas all the plaintiffs are owners of suit gat no.11, 177, 179 & 662. On perusal of the record it appears that, the present suit was compromise in between original plaintiffs and defendants. However, in view of order passed in RCA No. 238/2005. The compromise took place in present suit on 19.12.2001 vide Exh.69 was set-aside and matter remanded back for fresh trial. Therefore, the substance appears in the contention of the third party that the compromise was taken place between plaintiffs and defendants. The plaintiffs have taken the defence that, as per section 52 of the Transfer of Property Act purchaser is not necessary party. However, it is to be noted that, before the compromise which came to be set-aside, the present applicant had

purchased some portion of suit gat no.157 from plaintiff no.1. It shows that, during pendency of the suit present plaintiff no.1 sold some portion out of suit gat no.157 to present third party applicant and accordingly created interest in the property in respect of which the plaintiffs are claiming declaration of ownership and injunction on the basis of possession. It is pertinent to note here that, though the plaintiff no.1 sold the suit property to the third party applicant, the same was not party in the suit. In absence of third party, compromise took place. Admittedly, the applicant is purchaser during pendency of the suit. A subsequent purchaser is generally considered as proper party rather than necessary party but he should usually be impleaded to ensure a binding and comprehensive adjudication and avoid further litigation. His presence is crucial when the rights of subsequent purchaser is directly affected. The plaintiff claiming declaration and injunction in respect of the property which he has sold. In such circumstances, considering the nature of the suit and reliefs claimed by the plaintiffs, the third party applicant whose interest has been created during the pendency of the suit needs to be added in the suit as parties being proper party in order to decide the dispute regarding claim of ownership and possession. In absence of third party applicant the dispute between the parties cannot be adjudicated conclusively and effective decree cannot be passed. Record shows that third party applicant has also filed RCS No.155/2018 against the present plaintiffs and defendants in respect of the purchased area. If the dispute between the purchaser and seller is decided in the present suit it will avoid the contradictory decisions. In order to proper adjudication of dispute and for ascertaining real controversy and to avoid multiplicity of proceedings the present application needs to be allowed. Hence I pass following order :

ORDER

- i. The application is allowed.
- ii. The plaintiff to comply.

Date : 25/02/2026.
Place : Saswad.

(**Tukaram P. Mote**)
Jt. Civil Judge, (J.D.),
Saswad, Dist. Pune.

CERTIFICATE

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

Name of the Court	:: Shri. T. P. Mote, Jt. C.J.J.D. & J.M.F.C., Saswad, Dist. Pune
Name of Stenographer	:: Santosh K. Panchal, Stenographer (Grade - III),
Date of Order	:: 25.02.2026
Order signed by PO. on	:: 25.02.2026
Order uploaded on	:: 02.03.2026