

ORDER BELOW EXHIBIT 72 IN RCS NO. 12/2014

(Passed on 13/12/2017)

This is an application by third party under order 1 Rule 10 of the Code of Civil Procedure (hereinafter for short 'the CPC').

[2] It is contended by the third party applicant that her name is mentioned as second wife of deceased Chima Lokhande. However, she is intentionally not made party to the suit. After the demise of first wife of deceased Chima, he married the third party applicant. Defendant No. 1 to 5 were born to them. However, the plaintiff has suppressed material information with intention to grab the suit property excluding the right of the third party applicant. The impleadment of third party applicant as party defendant to the present suit is necessary to decide the suit on merits. Hence, the present application.

[3] The plaintiff filed his say at Exhibit 89 and strongly contested the application. It is his contention that the application is false and not maintainable. It is contended that the first wife of deceased Chima Lokhande was Bhikabai and she expired on 27/11/1947. After her demise, deceased Chima married deceased Awdabai. During the existence of said marriage, deceased Chima had extra marital relation with the third party applicant. The defendants are children born out of the extra marital relation. Hence, it is prayed that the application be rejected with costs.

[4] Heard the learned advocates for the plaintiff and the defendants at length. Perused the record of the case.

[5] The present suit is for partition, alongwith declaration and injunction. The defendants appeared and filed their written statement. The only question for consideration in the present application is whether the third party applicant is necessary party to the present suit. According to the third party applicant she has share in the suit property as she is the second wife of deceased Chima Lokhande. On perusal of the plaint as well it is seen that the plaintiff has pleaded that the third party applicant is related to deceased Chima as wife. Therefore, she definitely is a necessary party in the suit. The addition of third party applicant as party defendant will assist in completely and finally adjudicating the controversy involved in the suit. In a suit for partition, it is necessary that all the necessary parties are joined as parties. Hence, I am of the opinion that the application is liable to be allowed. During the pendency of the present application, the plaintiff moved an application at Exhibit 109, in which he has prayed that the third party applicant be added as defendant. The said application is allowed. Hence, in view of the above discussion, I pass the following order-

ORDER

The application is allowed.

The plaintiff to carry out the proposed amendment in the plaint in view of order below Exhibit 109.

Costs in Cause.

Date : 13/12/2017
Place : Ghodegaon

Bhanupratap Chouhan
Jt. Civil Judge Junior Division