

ORDER BELOW EXHIBIT 94 IN RCS NO. 110/2006

(Passed on 09/07/2018)

This is an application by the defendant No. 9 under order 1 rule 10 of the Code of Civil Procedure (hereinafter for short 'the CPC') praying that he may be transposed in the array of plaintiff as plaintiff No. 2.

[2] The present suit is for partition and separate possession. It is contended by defendant No. 9 that the plaintiff has expired and his legal representatives are taken on record. However, they are residing at Mumbai. Therefore, they are not able to look after the case. Hence, the progress of the case is lacking. Thus, it is prayed that he be transposed in the array of the plaintiffs. Per contra, the plaintiff has given no objection to allow the application. The other defendants failed to file their say even after repeated opportunities.

[3] Heard. Perused the application and the say.

[4] The present case is for partition and separate possession of the joint family properties. Defendant No. 9 is a coparcener. In a suit for partition, all the coparceners, although defendant, are plaintiffs only. On perusal of the record of the case there appears substance in the contention of defendant No. 9. Moreover, considering the no objection on the part of the original plaintiff, I find no reason to reject the application. Hence, the application is liable to be allowed. Hence, the order-

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ORDER

The application is allowed.

Defendant No. 9 is transposed as plaintiff No. 2 in the suit. The original plaintiff to carry out the proposed amendment in the plaint forthwith and furnish the copy of amended plaint on or before next date without fail.

Costs in Cause of the suit.

Date : 09/07/2017
Place : Ghodegaon

Bhanupratap Chouhan
Jt. Civil Judge Junior Division