

Order Below Exh.19.
(Passed on 10/04/2026)

This an application moved by applicant third party Sant Dnyaneshwar Nagari Sahakari Patsanstha under Order 1 Rule 10(2) of the Code of Civil Procedure to join it as defendant.

2) The applicant has contended that the present suit is filed for partition and separate possession. It is further contended that plaintiff has suppressed material facts from the court. It is further submitted that defendants have obtained loan from this third party and mortgaged the suit properties a third party by executing registered mortgaged deed. It is further submitted that, therefore, the right and interest of third party is involved in the suit properties. Therefore, the third party is necessary party. On these grounds third party has prayed for add it as defendant.

3) Plaintiff has not filed his say to this application even after giving ample opportunities. Both parties and their Ld. Advocate absent when called. Therefore, I proceed to decide this application on its own merit.

4) Perused the application and record. The general rule in respect of impleadment of parties is that the plaintiff in a suit, being '**dominus litis**', may choose the persons against whom he wishes to litigate and cannot be compelled to sue a person against whom he does not seek any relief. Consequently, a person who is not party has no right to be impleaded against wishes of the plaintiff. It also requires to join any party that the proposed party must be necessary

to the suit and in whose absence no effective decree can be passed. But this general rule is subject to the provisions of Order 1 Rule 10 (2) of Code of Civil Procedure, which provides for impleadment of necessary or proper parties. The said sub rule provides that-

(2) Court may strike out or add parties.—The Court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Court to be just, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name, of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added.

5) The said provision makes it clear that a court may, at any stage of proceedings, either upon or even without any application, and upon any conditions which court deem fit, direct that any following persons may be added as party: (a) any person who ought to have been joined as plaintiff or defendant, but not added; or (b) any person whose presence before the court may be necessary in order to enable the court to effectively and completely adjudicate upon and settle the question involved in the suit.

6) A necessary party is a person who ought to have been joined as party and in whose absence no effective decree could be passed at all by the court. The proper party is a person in whose absence effective decree can be passed but his presence is necessary in the suit.

7) I have gone through the pleading of both parties. It appears from the plaint that the plaintiffs have filed this suit for partition, declaration and separate possession of the suit properties. It is contentions of third party that defendants have obtained loan from this third party and mortgaged the suit properties a third party by executing registered mortgaged deed. It is further submitted that, therefore, the right and interest of third party is involved in the suit properties. However, no single document produced on record to support this contention. Therefore, this application is having no merit and liable to be rejected. Hence, I proceed to pass the following order.

ORDER

The application Exh.19 is hereby rejected.

Ghodegaon
Date :- 10/04/2026.

(Santosh L. Vaidya)
Jt. Civil Judge (J.D.), Ghodegaon
Tal. Ambegaon Dist. Pune.