

Order below Ex.38 in Spl.C.S.no.51/2012

M/s Navrang Enterprizes ... Plaintiff
Vs.
Shri.Mahesh Rambhau Mhatre
& others ... Defendants

This is an application filed by the intervener seeking to implead the legal heirs of deceased Rewu and Yamuna, deceased daughters of original owner deceased Kashibai, through whom, the vendor of plaintiff was claiming.

2 Admittedly, defendant nos.1 to 5 i.e. sons of deceased Radhabai, the daughter of deceased Kashibai, according to plaintiff, had executed a sale agreement in favour of plaintiff who has sought for specific performance of contract on the basis of that agreement. According to plaintiff, the land was acquired by defendant/CIDCO and land was belonging to defendant nos.1 to 5 who were allotted suit plot by CIDCO under 12.5% scheme.

3 Interveners have come with a case that defendant nos.1 to 5 are the legal representatives of other daughters of deceased Kashibai who had two more daughters namely Radhabai and Dhakubai, whose legal representatives, too, have share in the acquired land, and resultantly, share in the plot allotted in lieu of acquisition. Interveners have placed on record genealogical tree commencing from deceased Kashibai whose name appears in the 7/12 extract as an original owner

who appears to be common ancestor of either defendant nos.1 to 5 and these applicants. The 7/12 extracts, according to interveners, does not reveal the name of other daughters of deceased Kashibai.

4 Plaintiff has resisted the application on the ground that interveners have no concern with the property which is a plot allotted by CIDCO and that allotment does not at all mention the name of interveners. Merely because CIDCO allotted plot to defendant nos.1 to 5 to the exclusion of other legal heirs of deceased Kashibai who could have right in the original land acquired by the CIDCO, defendant nos.1 to 5 cannot be said to be exclusive owners. Whether defendant nos.1 to 5 were exclusive owners is an issue which requires hearing and evidence which cannot be determined without giving an opportunity to the interveners and, therefore, they are necessary parties to the suit for specific performance of contract for sale of land in which the interveners are claiming to be co owners with vendor defendants.

5 Hence, impleadment of these proposed defendants is justified. Hence, the order-

ORDER

Plaintiff to implead proposed defendants
as party defendants by amending plaint.

Panvel

Date- 22/02/2016

(D.R.Deshpande)

Jt.Civil Judge, Sr.Division, Panvel