



Order below Exhibit No.51 in
Reg. Civil Suit No.14/2015

This is the application filed by plaintiffs under Order 1, Rule 10 and Order VI, Rule 17 of C.P.C. to implead proposed defendant as party to the suit.

02. The plaintiffs have contended that, present suit is filed for the partition and separate possession of their share in suit property. After filing of the suit immediately defendant No.4 Mr. Jagannath Patil has deliberately with malafied intention executed sale deed of suit property in favour of Mr.Shankar Gajanan Gurav. Therefore, according to plaintiffs Mr.Shankar Gurav in whose favour the alleged sale deed was executed is necessary party to the suit. Thus, plaintiffs prayed to allow the application.

03. On the contrary defendant No.4 vide say Exhibit No.53 objected instant application. According to him, application is not supported with the affidavit and it was signed by the third person namely Vijay Shinde. Therefore, he prayed to reject the application. Other defendants failed to file say in spite of ample opportunities.

04. I have heard the Ld. Advocate for plaintiffs. Defendant no.4 and his advocate remained absent when called repeatedly. Therefore, the application is posted for order without the argument of defendant No.4.

05. It is settled principle of law that, it is always open for the court to add any such person as a necessary party in the suit to enable the court to effectively adjudicate upon the question involved in the suit. However, for exercise of the powers under Order 1, Rule 10 (2) of the Code of Civil Procedure, it has to be seen as to whether the party is necessary party or proper party. A necessary party is one without whom no order can be made effectively and proper party is one, in whose absence an effective order can be made, but whose presence is necessary for complete and final decision of the question involved in the suit.

06. On the aforesaid background, if the instant application is considered, it is seen that, the plaintiff has instituted the present suit for partition and separate possession of suit properties. It is contended by the plaintiffs that, after institution of suit defendant No.4 has executed sale deed of suit property in favour of person namely Shankar Gajanan Gurav and therefore, the subsequent purchaser is necessary party to the suit.

07. Thus, it is an undisputed fact that, after filing of the present suit the defendant no.4 has executed sale deed in favour of proposed defendant. The plaintiffs have also brought on record the copy of said sale deed dated 23/01/2015. If this being a position, I am of the considered view that, the proposed defendant namely Shankar Gajanan Gurav has acquired interest in the suit property and therefore, he is necessary party to the instant suit. His presence is necessary for effective adjudication of the dispute involved in the present suit. In this view of matter the instant application deserves to be allowed. Hence, I proceed to pass following order:-

:-ORDER:-

01)	Application (Exhibit No.51) is allowed.
02)	The plaintiffs shall implead the proposed defendant namely Shankar Gajanan Gurav in the array of defendant No.5 and shall carry out the necessary amendment in the cause title of the plaint.
03)	The plaintiffs shall also filed appropriate amended copies of the plaint.

(Dictated and pronounced in open Court)

Khalapur
Date:- 14/10/2021.

Sd/-
(Shri.P.M.Mane)
Jt. Civil Judge, Junior Division,
Khalapur.