

**Order Below Exhibit No. 69.**

[Passed on 21/03/2018.]

Present application moved by the plaintiff Under Order I Rule 10 and Under Order 6 Rule 17 of the Code of Civil Procedure, 1908 [hereinafter the Code'] has been, for adding parties and to carry out amendment in para 4A in the suit.

02. Perused the application and say given thereon. Heard both sides at length.

03. According to the Plaintiff, She has instituted the suit against the defendant for Partition and perpetual injunction. As per the plaintiff, along with Sakharam, Namdeo(dead), and Tukaram (dead) late. Krushna Narayan Lavte has daughters and late. Krushna Narayan Lavte have 1/2 share in the suit property. Hence, plaintiff prayed to add them or their heirs as necessary parties to the suit and also seek amendment in the para 4A of the plaint by adding some matter. Thus, plaintiff has prayed for allowing the application by adding the parties in the suit.

04. Per contra, learned advocate for the defendant has resisted the application on the count that the plaintiff have knowledge of the legal heirs at the time of institution of suit. The application is not tenable at this stage. Thus, he has prayed for rejection of the application.

05. At the outset, it would be apposite to state here that Order I Rule 10 [2] of the Code provides about addition of parties and it runs as

under:-

**[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.*

06. From the perusal of the same, it appears that Order I Rule 10 [2] of the Code comes into play when 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 is required to be added. Considering this settled canon of law, it is required to be seen whether the relief prayed by way of this application can be granted or not?

07. Perused the record. Plaintiff has instituted the present suit for partition and perpetual injunction averring that she has 1/2 share in the suit property. Issues are framed and matter was posted for hearing. The plaintiff has filed affidavit of examination in chief on 27/10/2017. The cross examination of plaintiff is yet to begin. So, at this stage of the proceeding, there is no reason to reject the application of the plaintiff as it will help to decide the case on merits.

08. The proposed parties are necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit. They seem to be necessary parties in the suit and their presence would be indispensable to enable the Court to effectively adjudicate the question involved in the suit. The amendment sought by the plaintiff in para 4A will not alter the nature of suit. No prejudice will be caused to the defendant if the parties are added but on the other hand, they will get an opportunity to contest the matter ardently.

10. Bearing in mind, the above discussion and in order to avoid multiplicity of proceedings, it is imperative to hold that the application needs to be allowed. So, I proceed to pass the following order.

**ORDER.**

01. Application [exh. no. 69] is hereby allowed.
02. The plaintiff is permitted to add the parties as prayed in the application.
03. The plaintiff is directed to carry out proposed amendment in the plaint on or before next date.
04. The plaintiff to submit amended plaint with copies thereof on or before next date.
05. Costs in cause.

Date:- 21/03/2018.  
Place:- Roha.

[C.U.Shipkule]  
Joint Civil Judge Junior Division, Roha.  
MH-RG-0009-2804