

**:: Order below exhibit 57 in R.C. S. No. 28 of 2014 ::**

1. This is a suit for cancellation of sale deed. By this application plaintiff has prayed to implead, under order 01 rule 10 of Civil Procedure Code, the subsequent purchaser of suit property in the suit as defendant no.02.

2. According to plaintiff, he had executed sale deed of suit property in favour of defendant as a security to the loan transaction in between plaintiff and defendant. It was agreed that on repayment of the hand loan of Rs. 2,00,000/-, the sale deed was to be canceled. However, defendant refused to accepted the loan amount and re-execute the sale deed in favour of plaintiff. So plaintiff has filed this suit for cancellation of sale deed. During pendency of this suit defendant sold out the suit property to Jahid Hidaitulla Antule by registered sale deed no.3156/2014. Though the possession of suit property is with plaintiff, impleadment of the purchaser of suit property in this suit is necessary for proper adjudication of the dispute. So, plaintiff has prayed to allow the application.

3. Defendant has filed his say at exh.59 and contended that, this suit is not for possession of suit property. The purchaser of suit property is not necessary party to this suit. No relief is claimed against the purchaser of for the suit property. It will protract the trial. Without implerading the purchaser of the suit property in the suit, adjudication of the dispute is possible. Hence, he prayed to reject the application.

4. Considering the rival contention of both the parties following points arise for determination to which I have recorded my findings for the reasons to follow.

Sr.No.	Points	Findings
1.	Whether the presence of subsequent purchaser of suit property is necessary in this suit for proper adjudication of the dispute ?	...Yes
2.	What order?	As per final order.

### **REASONS**

5. I have gone through the application carefully. Perused the say of defendant. Perused the plaint and written statement. Learned Adv.Chandorkar for plaintiff submitted that, Jahid Antule has purchased the suit property during pendency of the suit. So, the subsequent purchaser is necessary party in this suit. If he is not impleaded in the suit then adjudication of the dispute cant not be made properly. So, he prayed to allow the application.

6. On behalf of defendant learned Adv. Sable submitted that, this suit is not for possession of the suit property. The purchaser is not necessary party. Adding the purchaser in the suit will delay the suit. So, he prayed to reject the application.

#### **As to point no. 1 and 2:**

7. On perusal of plaint it is seen that, plaintiff has sought for cancellation of sale deed executed by him in favour of defendant. However, it is seen that during pendency of the suit defendant sold out the suit property to Jahid Hidaitulla Antule. Here it is pertinent to note that, though plaintiff has not sought for possession of the suit property, the subsequent purchaser is necessary party in the suit for proper adjudication of the dispute. Presence of subsequent purchaser before the Court is necessary in order to enable the Court effectually and completely adjudicate upon and settle all the questions involved in the suit. Refusing

to implead subsequent purchaser in the suit will create multiplicity of proceedings. Hence, it is necessary to add subsequent purchaser in the suit as defendant no.02. Accordingly point no.01 is answered in the affirmative and in answer to point no. 2 following order is passed.

**: Order :**

- 1 Application is allowed.
- 2 Plaintiff is permitted to array Jahid Hidaitulla Antule as defendant no.02 in the plaint.
- 3 Plaintiff to carry out the amendment within stipulated period.
- 4 Costs in main cause.

( R. R. Patil )

Date: 19.08.2019.

Civil Judge, J. D., Mahad