

R. C. S. NO. 176 OF 2014
Tukaram Manjare vs. Neera Manjare

ORDER BELOW EXHIBIT 43 IN RCS NO. 176/2014

The plaintiff presented this application for addition of parties under Order 1 Rule 10 of the Code of Civil Procedure. Perused the application and say of the defendant. Heard both the parties.

2. The plaintiffs submitted that they instituted this suit for partition against the defendants. The plaintiff filed his examination-in-chief affidavit at Exh. 25. In his cross-examination it has come in his evidence that the legal heirs of one his ancestor Dhondhu Manjare was not included in the suit. He instituted suit for partition against the legal heirs of Dhondhu Manjare namely Tukaram, Bhiku, Sitaram and Babu. But in the cross-examination of the plaintiff he admitted that Dhondhu Manjare has other two legal heirs namely Bayo and Bhagi and they are the heads of their branch. Bhagi has no legal heirs. But Bayo has three legal heirs namely Raju, Waman and Kali who have share in the suit property. Therefore he prayed for addition of legal heirs of Bayo as necessary parties in the suit.

3. The defendant objected this application and contented that in order to delay the proceedings of the suit the plaintiff has deliberately not added the remaining legal heirs of Dhondhu Barkya Manjare at the earlier stage of the suit. Hence, he prayed for rejection of application.

4. This is a suit of partition. The plaintiff has provided genealogy of his ancestors but in his cross-examination it has come on record that one of the ancestors Dhondu Barkya Manjare has other two legal heirs namely Bhagi and Bayo. The plaintiff has asked relief against the ancestors of Dhondu Barkya Manjare who has legal heirs namely Tukaram, Bhiku, Sitaram, Babu, Bayo and Bhagi. Bayo and Bhagi had not been included in this suit despite having rights in the suit property. The legal heirs of Bayo namely Waman Tembe, Sadhu Tembe and Kali Kale being coparceners have right in the suit property. Therefore they are necessary party in the suit. In order to decide the suit on merits and to determine the rights of all the parties, it is necessary to add legal heirs of Bayo in the suit.

5. The plaintiff further prayed that the defendant No. 15 is dead and she has legal heirs which were already included in the suit, therefore it is necessary to write 'deceased' in front of the name of the defendant No. 15. This amendment is technical in nature. It will not cause any prejudice to both the parties. Therefore it has to be allowed. In the circumstances I pass the following order,

ORDER

Application is allowed.

The plaintiff is directed to add the names of legal heirs of Bayo Dhondu Manjare namely Waman Balu Tembe, Sadhu Balu Tembe and Kali Sitaram Kale as

the defendant Nos. 18, 19 and 20 respectively.

The plaintiff is directed to submit the amendment copy within fourteen days from the date of this order.

No costs.

Mangaon.
Date:- 06/02/2017

(**G.S. Hange**)
Jt. Civil Judge J.D. Mangaon.