

MHRG140002102012



R.C.S. No. 111/2012

Haribhau Tukaram Patil
Vs.

Janardhan Dhaya Joshi

Order below Exhibit 81

1. The plaintiff has preferred this application under Order 1 Rule 10 of the Code of Civil Procedure 1908 (CPC).
2. Plaintiff have submitted that the defendants have sold the suit property to Chauhan Infra Developers LLP through their partners i.e. Chandrabhushan Mansingh and Avinash Kumar Singh. Therefore, it is necessary to add the proposed defendants in the suit and carry out necessary amendments with respect to the pleadings of the sale of the suit property.
3. The other defendants have objected the present application.
4. Considering the application and say, following points arise for my determination and I record my findings thereon.

Sr. No	Points for determination	Findings
1	Whether the proposed are required to be added in the plaint ?	Yes
2	What Order ?	Application is allowed

5. Perused the application and say. Heard both sides.

6. Both the parties have argued in terms of their application and say.

Point no.1 and 2 : Both points, being inter-related are being dealt together

7. Order 1 Rule 10 (2) of the CPC is read as under:

'The Court may at any stage of the proceedings, either upon or without the application of either party, and on such term 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.'

8. Thus, it is clear that where the presence of a party is necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, a party can be added to the suit.

9. The two parameters for exercising the power under Order 1 Rule 10 of the CPC are (a) such person ought to have been joined, either as a plaintiff or as a defendant, but is not so joined; or; (b) Without his presence, the question involved in the suit cannot be decided finally and effectively.

10. In the present case, the fact about sale of the property is not a point of contention. The fact that proposed defendants have purchased the said

suit property is not disputed.

11. Further, the presence of the proposed party is essential to effectually and completely adjudicate upon all the questions involved in the suit. Thus, the proposed defendants are necessary parties to the suit and it prima facie appears that rights of proposed defendants are involved in the suit.

12. In view of the above observations, I am of the view that the application deserves to be allowed. Therefore, I answer point no.1 in affirmative in answer to point no.2, I proceed to pass the following order:

::ORDER::

1. Application is allowed.
2. Proposed defendants be added in the plaint.
3. Plaintiff shall carry out necessary amendment within 14 days from this order.
4. Costs in cause.

Place: Uran
Date : 25.09.2024

(Ms. G. K. R. Tandon)
2nd Jt Civil Judge, J.D.,
Uran