

MHRG140003502014**R.C.S. No. 47/2014****Kamlakar Motiram Mhatre and others****Vs.****Chakun Vitthal Mhatre and others****Order below Exhibit 107**

1. The plaintiffs have preferred this application under Order 6 Rule 17 and Order 1 Rule 10 of the Code of Civil Procedure 1908 (CPC).
2. Plaintiffs have contended that while the proceedings of the present suit were pending, the plaintiff recently came to know that Defendant No. 1(a), 1(b), 3, 4(a), 4(b), 6, and the late Ram Chintu Mhatre, K. Vevivay Parshuram Mhatre, Jayendra Vitthal Mhatre, Asha Kamalakar Patil, Suhasini Arjun Patil, Sadanand Vitthal Mhatre, Ramchandra alias Ram Chintu Mhatre, Kalyani Kishor Patil, and Sairaj Kishor Patil through guardian Archana Kishor Patil, executed a Tripartite Agreement dated 02.07.2012 in respect of the suit property with (1) M/s Indu Housing LLP through its partners: (1/1) Omprakash Kevalram Kakawani, (1/2) Avinash Omprakash Kakawani, (1/3) Rajiv Ramesh Vadhija, and (1/4) Bharat Vijay Takhtani.
3. The said Tripartite Agreement is illegal and is not binding upon the plaintiff in any manner whatsoever. Further, on the basis of the said agreement, M/s Indu Housing LLP through its partners— Omprakash Kevalram Kakawani, Avinash Omprakash Kakawani,

Rajiv Ramesh Vadhija, and Bharat Vijay Takhtani — has commenced unauthorized construction on the suit property.

4. In such circumstances, it has become necessary and essential to implead M/s Indu Housing LLP and its aforesaid partners as parties to the present suit and to carry out necessary amendments accordingly. Since these developments have occurred during the pendency of the suit, it has become essential for the plaintiff to amend the plaint appropriately in light of these new facts. Therefore, the present application has been filed.
5. The defendant has submitted that these details were available with the plaintiff at the time when defendants filed their written statement. Hence, there is a bar of limitation. Therefore, the application may be rejected.
6. Perused the application and say. Heard both sides.
7. 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 amendment needs to be allowed ?	Yes
2	What Order ?	Application is allowed

::Reasons::

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

8. Both the parties have argued in terms of their application and say. The parameters of the said provision, will have to be considered.

9. 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.'

10. 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.

11. 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.

12. The name of the proposed defendants are required to be added because the suit property has been sold to the proposed defendants and they are constructing on the suit properties. As per the plaintiff, they are changing the nature of the suit property.
13. In a suit, all the necessary parties must be included. 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 party to the suit and it prima facie appears that their right has been created for the suit property. It will not change the nature of the suit.
14. The question as to when did the plaintiff came to know about the above facts is a matter is a adjudication.
15. Therefore, it is necessary to allow the application to enable the court to adjudicate upon and settle all the questions involved in the suit. Hence, I answer **point no.1 in affirmative** and in **answer to point no.2**, accordingly, I proceed to pass the following order:

::ORDER::

1. Application is allowed.

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

Sd/-

Place:Uran
Date : 30.04.2026

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