

MHRG140006452019



R.C.S. 88/2019

Order below Exh. 64

This is an application under Order I Rule 10 (2) of the Code of Civil Procedure 1908 (hereinafter referred to as the C.P.C.).

2. Plaintiffs have claimed that they belong to joint family of plaintiffs and defendants. Plaintiffs have instituted this suit for partition and separate possession of suit properties. During pendency of the suit, the defendant no. 3 has sold S.No. 151/6 to Sakshi Surendra Raut and Sanvi Sushil Raut by virtue of sale-deed no. 1267/2020 dated 29.09.2020. The defendant no. 3 has also sold S.No. 27/2 to the defendant no. 1 by virtue of sale-deed no. 1268/2020 dated 29.09.2020. Accordingly, names of purchasers were mutated to record of rights. Therefore, said purchasers are required to be added as defendants in the suit.

3. The application came to be opposed on the ground that there is no pleading as to why proposed defendants are to be added. Plaintiffs have not sought any amendment to the plaint. Therefore, this application is not maintainable. The application at Exh. 41 was withdrawn unconditionally. Persons in favor of whom rights are created have approached the court. Plaintiffs have no right to implead such parties.

4. Perused the application and say. Heard both sides in detail. Learned advocate for the defendant has submitted that plaintiffs have no right to approach the Court to add such parties. Therefore, recourse has to be taken to the provision of O. 1, R. 10 (2) of the C.P.C.. It provides that, '*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.*'

5. Considering the above provision it is settled that parties can be added on the application of either party or without such application, Court can strike out or add parties. Moreover, it is clear that the party whose presence before the Court is necessary to determine or adjudicate the question involved in the suit needs to be added. In the case on hands, proposed parties have purchased suit properties. Therefore, prima facie, it is seen that rights of proposed parties are involved in the suit. Therefore, they are necessary parties to the suit. As a result, application deserves to be allowed. Consequently, I pass 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.

Uran,
Date : 01.03.2024

(Vikas D. Bade)
Civil Judge, J.D., Uran