

MHRG140016462024



ORDER BELOW EXH-27

1. This order shall dispose of the application filed by the Plaintiffs at Exhibit 27, seeking permission to implead subsequent purchasers as Defendant Nos. 9 and 10 and to carry out consequential amendments in the plaint under Order I Rule 10 and Order VI Rule 17 of the Code of Civil Procedure, 1908 (hereinafter referred to as "the Code").

2. Facts leading to the present application are summarized as under:

The Plaintiffs have instituted the present suit against the Defendants seeking a decree of partition, declaration, and separate possession in respect of the suit properties described in Paragraph 1 of the plaint. The suit was instituted in the year 2024.

3. During the pendency of the present suit, certain transactions of sale have allegedly occurred in respect of portions of the suit properties. Specifically, the Plaintiffs contend that:

(a) Defendant Nos. 5 and 6 have sold their undivided share in the

suit property to Defendant No. 7 and one Smt. Smita Kundan Mokal by way of a registered Sale Deed dated 29/08/2024, registered with the Sub-Registrar Office, Uran, vide Document No. 3570/2024.

(b) Further, Defendant Nos. 1 to 4 and Plaintiff No. 10 have sold an undivided share admeasuring 0.68.40 Hectare in the suit property to one Shri. Sunil Gopi Rathod by way of a registered Sale Deed dated 24/06/2025, registered with the Sub-Registrar Office, Uran, vide Document No. 3195/2025.

4. It is the case of the Plaintiffs that since Smt. Smita Kundan Mokal and Shri. Sunil Gopi Rathod have acquired an interest in the suit properties during the pendency of the suit, they are necessary and proper parties to the present litigation. The Plaintiffs, therefore, seek to implead them as Defendant Nos. 9 and 10 respectively, and carry out consequential amendments to the plaint as described in the schedule of the application.

5. Defendants filed their say. The Defendants did not actively oppose the application and submitted that "appropriate orders be passed" on the application.

6. The present suit is one for partition, declaration, and separate possession. In a suit for partition, all co-sharers and persons having an interest in the joint family property or the subject matter of partition are necessary parties. The Plaintiffs have asserted

that during the pendency of the suit, parts of the undivided share in the suit property were transferred via registered sale deeds dated 29/08/2024 and 24/06/2025 in favor of the proposed defendants.

7. Order I Rule 10(2) of the Code vests the Court with ample power to strike out or add parties at any stage of the proceedings, either upon or without the application of either party, if the presence of such party is necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit. The Hon'ble Supreme Court in ***Mumbai International Airport Pvt. Ltd. vs. Regency Convention Centre and Hotels Pvt. Ltd. & Ors., (2010) 7 SCC 417***, held that a 'necessary party' is a person who ought to have been joined as a party and in whose absence no effective decree can be passed at all by the Court. A 'proper party' is a party who, though not a necessary party, is a person whose presence would be necessary to enable the court to completely, effectively, and adequately adjudicate upon all matters in dispute.

8. Furthermore, in ***Thomson Press (India) Ltd. vs. Nanak Builders and Investors P. Ltd. and Ors., 2013 (3) Bom.C.R. 518 (SC)***, the Hon'ble Supreme Court observed that a transferee pendente lite is a proper party as they have acquired an interest in the suit property, and to avoid multiplicity of proceedings, such a transferee may be impleaded to safeguard their interest, subject to

the doctrine of lis pendens.

9. Since Smt. Smita Kundan Mokal and Shri. Sunil Gopi Rathod have purchased undivided shares in the suit properties pendente lite, their rights are directly tied to the final partition decree. In their absence, a complete and effective partition of the suit properties cannot be carried out, and any decree passed would lead to subsequent litigation, defeating the very objective of a partition suit. They are, therefore, both necessary and proper parties to this suit.

10. Regarding the amendment of pleadings, Order VI Rule 17 of the Code directs that all amendments shall be allowed as may be necessary for the purpose of determining the real questions in controversy between the parties. In the present case, the amendment is consequential to the impleadment of the subsequent purchasers and seeks to bring on record the transactions that occurred after the institution of the suit. This amendment does not alter the fundamental character or nature of the partition suit, nor does it cause any prejudice to the existing defendants, especially given that the defendants have not opposed the application.

11. The application is filed prior to the commencement of trial, and the amendments are essential to adjudicate the real dispute on merits. Under these circumstances, I am of the considered view

that the application deserves to be allowed. Hence, I pass the following order:

ORDER

1. This Application (Exhibit 27) filed by the Plaintiffs under Order I Rule 10 and Order VI Rule 17 of the Code of Civil Procedure is hereby allowed.
2. The Plaintiffs are directed to implead Smt. Smita Kundan Mokal as Defendant No. 9 and Shri. Sunil Gopi Rathod as Defendant No. 10, and to carry out the consequential amendments in the plaint and the register of suits within 14 days from the date of this order.
3. The Plaintiffs shall file an amended copy of the plaint in court and serve the summons along with the amended copy of the plaint upon the newly added Defendant Nos. 9 and 10 in accordance with the law.
4. Plaintiffs shall also provide copies of the amended plaint to the existing Defendants.
5. Costs of this application shall be costs in the cause.

Uran,
Date : 12.06.2026

(S. P. Wankhade)
Civil Judge, J.D., Uran