

MHRG140020732016



RCS 158/2017
Anubai Vs. Shivkumar

ORDER BELOW EXHIBIT 39

1. This is the application filed under Order 1 Rule 10 of CPC. Applicants contended that, this suit is filed for declaration, partition, cancellation of sale deed and for perpetual injunction. Suit property was owned by the grandfather of the plaintiff and the applicant Madhukar Anant Gondhali. After the death of grandfather of the plaintiff Balaram Pathari Patil, suit property was recorded in the name of Anubai Anant Gondhali and Jangam Balaram Patil. Anubai Anant Gondhali died on 13.07.2017 and plaintiff and applicants are her heirs. Therefore, applicants are necessary parties to this suit. Hence, they prayed to add them as a party to the suit as defendant no. 10 and 11/1 to 11/3 and 12 to 14.

2. By filing say, defendant no.9 oppose the application contending that, the suit properties are already transferred to the third parties. Therefore, no interested lies of the applicant in the suit property. Therefore, he sought for rejection of this application.

3. By filling pursis at Exh.41 plaintiff contended that, all the contents mentioned in this application are true and correct and is admitted to him.

4. Perused the record. This suit is filed for declaration, partition, cancellation of sale deed and for perpetual injunction in respect of field bearing survey no.56 situated at Mauje Pirkon, Taluka Uran, District Raigad. In this case, issues are framed on 29.08.2022 and case is posted on evidence of the plaintiff. It appears that, plaintiff has not denied the interest and right of the applicants in the suit property. Therefore, there is no reason to deny the applicants to become parties to this suit. As to the say filed by defendant no.9 regarding transfer of suit properties to third parties, it can be decided after leading evidence of the parties. Therefore, in my view, there is no hurdle to grant this application. Hence, I proceed to pass following order:-

ORDER

- i. This application is allowed.
- ii. Applicants of this application are hereby added as defendant no.10, 11/1 to 11/3, 12 to 14 as prayed.
- iii. Plaintiff to carry out the amendment to that effect in his plaint and file amended copy of the plaint on record.
- iv. After carrying out amendment, newly added defendants shall file their written statement within statutory limitation period.
- v. Cost in cause.

Uran,
Date : 16.07.2025

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