



**IN THE COURT OF DISTRICT JUDGE-3
AT PANVEL, DISTRICT- RAIGAD**

REGULAR CIVIL APPEAL NO.478/2019

Gangadhar Krishnaji Dharap & Ors. --- Appellants

Vs.

Swaroop Surendranath Chopra & Ors. --- Respondents

Corum - Santosh C. Shinde

Date - 26th June 2025

Appearance-

Ld. advocate Mr. Ravindra Sawant for intervenor.

Ld. advocate Mr. R. V. Oak for Respondent No.1.

Order below Exh.93

1. Heard Ld. advocate Mr. Ravindra Sawant for intervenor & Ld. advocate Mr. R. V. Oak for respondent No.1.
2. This application is filed by intervenor **Shubhada Sharad Kanne** for adding her as party to the appeal.
3. Say of other side was called upon. Respondent No.1 has filed say at exh.96 and application is strongly objected. Intervenor has filed rejoinder at exh.97. Appellant has filed say at exh.98 and no objection is given for allowing intervention

4. application. Written notes of argument are filed by intervenor at exh.100.
5. Perused record.
6. In present appeal, judgment & decree dt.7th January 1991 in Special Civil Suit No.28/1985 passed by the Ld. CJSD Court, Raigad-Alibag is under challenge. Initially, appeal was filed before the Hon'ble Bombay High Court but on ground of pecuniary jurisdiction same was transferred to the District Court.
7. Ld. advocate Mr. Sawant for intervenor submitted that intervenor has purchased plot No.16 admeasuring 20,000 sq.fts in Survey No.20 of village Takve, Tal.- Karjat, Dist.- Raigad from Mr. Anil Madhukar Shah by sale deed dt. 5th May 1995. Intervenor by taking permission has constructed house on said plot and that its number is House No.142. Said house is being taxed by Kadhav village Gram-Panchayat and intervenor is paying electricity bills of electricity connection taken for the said house.
8. Mr. Sawant further submitted that intervenor is staying in that house since long back and now, spending her retirement life. She is enjoying said property by paying maintenance & other taxes. She came to know about litigation when few weeks ago she had called electrical contractor to do certain repairs and while chit-chatting, she came to know about litigation. It is necessary to add her party in the appeal as she

is in possession of aforesaid plot and she is going to affect by decision of the appeal.

9. Ld. advocate Mr. Oak for respondent No.1 submitted that this application is filed to protract hearing of appeal and there is collusion between intervenor, appellant & other respondents. Application is made on hearsay statement and without any foundation of documentary evidence. Intervenor has not placed any revenue record to show that her name is recorded as occupant or possessor of the said plot.
10. Mr. Oak further submitted that no possession was given to her. Electricity bill produced by intervenor is of the house No.141 and property tax receipt pertains to house No.142. She has not produced any sale deed. Agreement to sell is unregistered and it was executed after decision of the suit. Mere agreement to sell does not create any right or interest in the property therefore, it is not necessary to add intervenor as party to the appeal.
11. Present application is filed by intervenor when appeal is kept for arguments. It is contention of intervenor that she came to know about litigation when she had called electrical contractor to do certain repairs. Intervenor has not named the person who gave information about litigation in respect of suit property.
12. Subject matter in the suit is landed property bearing Survey No.19/1, 19/2, 20/1 & 20/2 admeasuring about 59 Hectors

92 R situated at village Takve. Suit was registered on 26th April 1985 and decree was passed on 7th January 1991.

13. As per intervenor, she has purchased plot No.16 in Survey No.20 of village Takve from Anil Madhukar Shah who had purchased that property from Kalokhe. Shrikrushna Ramchandra Dharap & others have interest undivided suit property. Plots have been transferred to approximately 121 persons and those persons were put in possession before the suit was filed.
14. If pleadings of intervenor are considered then most of her information is hearsay in nature. Along with application, intervenor has placed on record true copy of electricity bill, tax receipt of group Gram-panchayat of village Kadav regarding payment of tax for the year 2024-2025 in respect of house No.142 & photocopy of agreement for sale.
15. Copy of agreement to sell is a photocopy. It is not verified copy. As per this agreement, on 5th May 1995 intervenor has entered into agreement with one Mr. Anil Madhukar Shah in respect of Plot No.16 admeasuring 20,000 sq.ft in the lay out of landed property known as Dharap Agro Farms in Survey No.19 & 20 of village Takare Tal.- Karjat, Dist.- Raigad for consideration of Rs.50,000/- and as per that agreement, intervenor was put in possession of the plot by Mr. Shah.
16. Intervenor has not made it clear as to why that agreement to sell was not registered. For the sake of argument, it is considered that said argument was executed between Mr.

Shah & intervenor then another question arises as to why intervenor has not made any effort to execute sale deed in respect of plot No.16. This agreement is not registered agreement therefore another question arises whether or not such agreement create any right or interest in the immovable property.

17. Property tax receipt for the year 2024-2025 shows that tax is paid in respect of house No.142 and as per intervenor, she is residing in the said house which is constructed on Plot No.16. If copy of electricity bill is considered then on electricity bill address is 'House No.141 at Dharap, Karjat, Dist.- Raigad, Kadhav'. It is not made clear by intervenor as to when electricity connection was taken for house No.142 then why the address of house No.141 is mentioned on the electricity bill.
18. No doubt, a person aggrieved by any degree or order of the Court can apply for intervention or for adding him/her as party in the appeal but it is incumbent upon that person to show sufficient material that he/she will affect by the decision as he/she has right or interest in the immovable property which is the subject matter of litigation. Documents placed on record by intervenor does not support the stand taken by intervenor.
19. In application, intervenor has not given the date when she came to know about litigation and she has avoided to give date & specific source of information. There is no foundation to documentary evidence produced by intervenor.

20. Intervenor has not placed on record any revenue record which will show that she is occupant or possessor of plot No.16 in Survey No.20 of village Takve. Mr. Anil Shah is neither party to suit nor in the appeal. So also, alleged 121 plot purchasers have not agitated decision in the suit.
21. Intervenor has not shown as to how any interest is created in the immovable property on basis of unregistered agreement to sell. Law is well settled on point of effect of unregistered agreement to sell therefore, there is no need to elaborate this aspect.
22. If contents of the application & documents produced by the intervenor are considered then intervenor has not placed on record sufficient material to show that she has right or interest in subject matter of the suit or appeal.
23. Apart from argument, Ld. advocate for intervenor has relied upon decision of the Hon'ble Bombay High Court in Writ Petition No.16649/2024 filed by Bhimabai Shivaji Rewale wherein the Hon'ble High Court has permitted to Bhimabai Rewale to raise the grounds of non-joinder of necessary parties & mis-joinder of causes of action. That permission was given to raise those grounds on basis of written statement.
24. Ld. advocate for intervenor has not clarified as to how the intervenor is being benefited by aforesaid order of the Hon'ble Bombay High Court. As stated earlier, law is very clear in respect of addition or deletion of the parties.

Considering contentions of intervenor, I am of the view that intervenor has failed to show that adding her as party is necessary in order to enable this Court to adjudicate upon and settle the questions involved in the suit.

25. In absence of sufficient documentary evidence intervenor cannot be added as party in appeal. Intervention application for is devoid of any merit and same is liable to be rejected. As a result, I pass following order.

ORDER

1. Application at exh.93 is rejected.
2. No order as to costs.

Sd/-

Panvel
Date -26/06/2025

(S. C. Shinde)
District Judge-3, Panvel
Dist.-Raigad