

**Order below Exh.15 in Regular Civil Suit No.28/2014**

1. By filing this application under Order I, Rule 10 of C.P.C. the third party applicant namely Ganesh Raghunath Rege prayed for impleading him as a party to the suit contending that, he is owner and possessor of the suit property in which the plaintiff made encroachment and so it is necessary to implead him as a party to arrive at the proper conclusion and just decision of the suit. The plaintiff has strongly objected this application by filing say at Exh.19 contending that, as the relief in the suit is claimed against only the Grampanchayat, it is not necessary to add the applicant as party to this suit. It is also contended that, no relief is sought against the present applicant by plaintiff. Therefore, it is not necessary to add him as a party to the present suit.

2. The learned advocate for applicant here argued that, in view of Order I, Rule 10(2) of C.P.C., the Court may at any stage of the proceeding, either upon or without the application of other party, and on such terms as may appear to the Court to be just, order that any person may be joined as plaintiff or defendant, or whose presence before the Court is necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit. So, as per submission of ld. Advocate for applicant, as the property bearing survey no.54, hissa no.5 is owned by the present applicant namely Ganesh Rege and the alleged construction mentioned in his plaint by the plaintiff in 5 gunthas area is never in possession of plaintiff. Further, the main cause of action for filing this suit is arose on the basis of present applicant's complaint/application made to the Grampanchayat, Arawali, it is necessary to be made him party in the present suit. So, he prayed for allowing this application. On the other hand, the learned advocate for plaintiff here strongly argued that, as the prayer made in this suit is only against defendant nos.1 and 2 and no relief is sought against the present applicant, it is not necessary to add him as a party. He further argued that, the present applicant is neither necessary nor proper party to be joined in this proceeding. So, it is not

necessary to add him as a party to the suit. On this submission, he has relied on two authorities of Hon'ble Apex Court in the case of,-

(1) *Girdhari Lal Vs. Nagar Parishad, 1987 Law Suit (Raj) 137.*

(2) *Ramesh Hirachand Kundanmal Vs. Municipal Corporation Of Greater Bombay, 1992 Law Suit (SC) 189.*

3. On the rival submissions of both sides, I have gone through the application filed by the third party applicant, the say of plaintiff to this application as well as the original plaint of plaintiff, w.s. filed by defendant nos.1 and 2 and documents filed on record. It is admitted fact that, the plaintiff himself mentioned in the plaint para no.2 that he had purchased some portion of survey no.54, hissa no.5 from the present applicant namely Ganesh Raghunath Rege as per oral agreement and constructed the disputed construction and thereafter on the basis of his complaint/application the present defendant nos.1 and 2 had issued notice to him for demolition of construction. There is specific reference of this contention is seen at para nos.8, 10 and 12. Further, in para no.9, it is contended by plaintiff that, after issuing notice by defendant no.1, the plaintiff met with officer of Defendant no.1 i.e. Grampanchayat and talked with them. At that time, defendant nos.1 and 2 asked the plaintiff that, the matter will be settled amicably after discussion with the present applicant namely Ganesh Raghunath Rege and on that basis they assured the plaintiff that, they will not demolish said disputed construction. So, considering this aspect and in view of legal provisions mentioned in Order I, Rule 10(2) of C.P.C., I am of the bonafide view that, for complete and effectually adjudication of this dispute and to settle all the questions involved in this suit cannot be done unless the present applicant is made party to the present suit. No doubt, the plaintiff prima facie is not asking any relief against the present applicant but, he is asking the relief against defendant nos.1 and 2 under the assumption that they initiated the proceeding on receipt of complaint/application of present applicant. So, under such circumstances, I am of the bonafide view that, the present application needs to be allowed for bringing the true facts before the Court.

4. I have gone through the authorities cited supra by plaintiff. But, with due respect, said authorities are not helpful to plaintiff in present case in hand as the facts and circumstances before their Lordships and case in hand are totally different. Thus, considering all these aspects, I proceed to pass the following order.

**ORDER**

- 1) The application is allowed.
- 2) The plaintiff is directed to add applicant as defendant no.3 in this suit.

Vengurla.  
Date:- 17/11/2014.

( D.S. Zanvar )  
Civil Judge (J.D.), Vengurla.