

**ORDER BELOW EXH.53 IN REG. CIVIL SUIT NO.40/2009.**

1. *Perused application and say filed by defendant no.3. Heard both respective advocates.*

2. *By filing this application the plaintiff prayed for deleting the name of defendant no.3 by contending that, as at present defendant no.3 is not the Sarpanch of concerned Grampanchayat Khanoli, no cause of action remains against him. So, it is necessary to delete his name from the title clause from the place of defendant no.3. This application is strongly objected by defendant no.3 by contending that, in this case he has filed his written statement and the resolutions passed by him at the relevant time were legal and as the plaintiff wants to set aside the said resolutions with the help of new Sarpanch, this application was came to be moved by plaintiff with ulterior motive to go by the resolution passed by him. Accordingly, he prayed for rejection of this application.*

3. *The learned advocate for plaintiff here vehemently argued that, it is the choice of plaintiff that who may join as defendant and as the plaintiff wants to delete the name of defendant no.3, it is necessary to allow this application. On the other hand, the learned advocate for defendants strongly argued that, the present application is not tenable in the eye of law as initially the plaintiff had made defendant no.3 specifically and he wants to declare some resolution passed by defendant nos.1 to 3 is null, void and not to be acted upon. So, if the name of defendant no.3 is deleted, the suit will not tenable.*

4. *Considering the rival submissions and contentions, I have gone through the record, particularly the pleading of both parties and it is noticed that, the plaintiff has filed this suit against defendant nos.1 to 3, who are*

*the Gampanchayat Khanoli, Gramsevak and the Sarpanch with prayer that, the resolution passed by defendant nos.1 to 3 dated 29/01/2009 and 26/02/2009 be declared null, void, without authority and not to be acted upon with further prayer that defendant nos.1 to 3 be ordered to set aside the said resolutions. On these pleadings the issues were also framed at Exh.14. So, considering this aspect and also the written statement filed by defendant nos.1 to 3 and contentions made therein, I found some force in the argument of defendants that, by deleting the name of defendant no.3, the plaintiff wants to go by the resolution passed by him, which is the real controversy in this suit and this real controversy cannot be decided without his presence. That means in this case the defendant no.3 is necessary and proper party in view of Order I, Rule 10 of the Code of Civil Procedure.*

5. *Thus, considering all above aspects and discussion in foregoing paragraphs, I do not found merit in this application, so it is liable to be rejected. Hence the order.*

**ORDER**

- 1) *Application stands rejected.*
- 2) *Cost in cause.*

**Vengurla.**  
**Date:-07/04/2015.**

**( D. S. Zanvar )**  
**Civil Judge Jr.Dn., Vengurla.**