

**ORDER BELOW EXHIBIT 150 (I.A.NO. 2/2022) IN**  
**REGULAR CIVIL SUIT NO. 14/2012**

CNR No. MHSI07-000036-2012

This is a suit for declaration, injunction and in the alternative for possession of the suit property. The present application is filed by plaintiff Under O.I Rule 10 of C.P.C. for addition of necessary party to the suit.

**02.** Perused application and say. Heard both sides.

**03.** It is submitted by the plaintiff through his advocate that, the suit was filed by him in hurry as defendants 1 and 2 were about to carry out construction to the suit property. The plaintiff noticed that some important facts were left when he gone through his affidavit minutely. The plaintiff has stated in the plaint that Anusaya Sambhaji Angne had a sole daughter namely Kusum. However, in fact Anusaya has also another daughter Ladubai, after marriage Wanmala Abaji Sawant who is dead and her children being LR's have rights in the suit property. Lr's of deceased Wanmala have not been added as parties to the suit. They are necessary party to the suit. As such, the plaintiff has prayed to add proposed defendants 9 to 11 as necessary parties to the suit.

**04.** Defendants through their advocate have strongly objected the application and denied contents of the same. It is further contented by the defendants that the plaintiff has filed evidence affidavit at exh. 100. The contents of the present

application are contradictory to the affidavit of evidence which is not permissible. The plaintiff has not given any particular that, when did Ladubai born and when did she die. No evidence on record filed by the plaintiff to show that proposed defendants 9 to 11 are LR's of Wanmala Sawant. The application has lack of bonafides. The plaintiff has specifically contented in the plaint that his mother was the owner of the suit property and he being LR's has become owner of the same. The plaintiff has also claimed to be sole owner of the suit property. Considering this contention made in the plaint, the plaintiff cannot be permitted to add necessary parties. The application is filed with sole intention to delay the matter and harass defendants. The application without any merit. Thus, defendants have prayed to reject the application.

**05.** It is pertinent to note that the Court may at any time add necessary party to the suit on application made by the party or by sue- moto action. The presence of necessary party in a suit is most because in absence of that party, the suit cannot be finally adjudicated. The plaintiff has claimed that as the suit was filed in hurry, he mentioned in the plaint that Kusum was the sole daughter of deceased Anusaya but, the said contentions is against the fact. It is further submitted that except Kusum deceased Anusaya had also another daughter namely Ladubai renamed as Wanmala after marriage.

**06.** Whether there are merits in the contention raised by the plaintiff or not that cannot be seen at this stage. The plaintiff claimed that proposed defendant nos. 9 to 11 are necessary

parties to the suit. If the contentions made by the plaintiff in the application are considered, then it appears that proposed parties are necessary parties to the suit.

07. Perusal of record shows that evidence affidavit of the plaintiff is already filed which bears the contentions of the plaintiff as it is. However, when the question of necessary party is raised, the filing of evidence affidavit by the party will not create bar for adding necessary party to the suit. In the circumstances, it would be just and proper to allow the plaintiff to add necessary party as prayed subject to Costs of Rs. 1000/-. Hence, following order is passed.

**-: ORDER :-**

1. Application is allowed subject to Costs of Rs. 1000/- payable to defendants.
2. The proposed defendants 9 to 11 be added as parties to the suit.
3. The plaintiff is directed to add them and to comply with the order.
4. Necessary formality be followed by the plaintiff accordingly.

Date : 05/10/2023

Amardeep D. Tidke

Place : Malvan.

Civil Judge Junior Division, Malvan.