

ORDER BELOW EXHIBIT 61 (I.A.NO. 2/2022) IN
REGULAR CIVIL SUIT NO. 14/2015

CNR No. MHSI07-000061-2015

This is a suit for declaration and possession of the suit properties. The present application is filed by third party to add him as a necessary party to the suit.

02. Perused application and say filed by plaintiff and defendant's advocate. Heard all parties at length.

03. It is submitted by third party Vidyadhar Sakharam Vengurlekar that, along with defendant no. 1 he is also in possession of the suit properties. He was necessary party to the suit that the plaintiff has deliberately avoid to make him as a party. The suit house no.638 was recorded in the name of his father and after his demise his name has been recorded. On the basis of this submission, it is submitted that the applicant is necessary party to the suit. If he is not allowed to take part in the proceeding, he may suffer irreparable loss and he will be deprived of his rights.

04. Defendant no. 1 by filing his say has given no objection to add applicant/ third party as necessary party. The plaintiff has strongly opposed the application and submitted that third party/ applicant has no nexus with the house no. 638. It is submitted that house no.638 does not exist in the suit properties. The third party/applicant has nowhere explained how he is having rights over the suit property. The third party/applicant

has not produced any documentary evidence. It is not required to add the applicant as necessary party to the suit. If the applicant wants declaration of his rights, he may filed separate suit. With these contentions, the plaintiff has prayed for rejection of the application.

05. Perusal of plaint shows that, suit is for declaration and possession. The land bearing S. No. 51 H. No. 13C, 0.03 H.R. situated at village Devbag is the subject matter of the suit which is more particularly described in para no. 1 of the plaint. Further contention made in the plaint shows that, there is reference of house no.638. As per contentions made in the plaint in para no. 6, it appears that house no. 638 is part and parcel of the suit property. The applicant has produced on record photocopy of revenue assessment extract of house no. 638 which shows name of the present applicant along with other persons.

06. Considering nature of relief sought and contentions made in the plaint, the reference of house no. 638 is there in the plaint. The suit is for declaration and possession. The plaintiff has raised objection that applicant has not explained how he has right over the suit properties. The applicant has already produced on record assessment extract. If opportunity is given to the applicant to participate he may explain his stand in the matter. It appears that third party is necessary party to the suit. Hence, application deserves to be allowed. Thus following order is passed.

-: ORDER :-

1. Application is allowed.
2. The applicant be added as a defendant in the suit.
3. The plaintiff is directed to add him and to comply with the order.
4. Necessary formality be followed by the plaintiff accordingly.

Date : 28/11/2022

Amardeep D. Tidke

Place : Malvan.

Civil Judge Junior Division, Malvan.