



CNR No. MHSI070000262023
Order passed below Exh. No.34
in R.C.S. No. 10/2023

The present application has been filed by third-party applicants, namely Vanita Jayesh Dongre and Somaiya Jayesh Dongre, under Order I Rule 10 of the Code of Civil Procedure, seeking to be impleaded as defendants in the present suit.

2. The applicants contend that the present suit directly affects their legal rights and interests. Applicant No. 1 is the wife of the plaintiff, and Applicant No. 2 is his minor daughter. They submit that the suit property is ancestral property and that Applicant No. 2 has a legal interest therein. According to them, the plaintiff has deliberately not impleaded them as parties despite knowing that the reliefs sought in the suit would affect their rights. They further submit that their presence is necessary for the effective adjudication of the suit. If the suit is decided in their absence, their legal rights may be prejudiced and further litigation may arise. They also contend that no prejudice or inconvenience will be caused to the existing parties if they are impleaded as defendants.

3. The plaintiff has filed his say on the overleaf of the application itself. He has stated that the applicants were

not intentionally omitted from the array of parties and has expressed no objection to their impleadment in the suit.

4. The application has been opposed by defendant Nos. 2 and 3 by filing their reply at Exh 41. Defendant Nos. 4 and 5 have also opposed the application by filing their objections on the overleaf of the application itself. Since the objections raised by defendant Nos. 2 to 5 are substantially similar, they are considered together. It is contended by these defendants that the application is false, frivolous, and not maintainable. According to them, the applicants have no right, title, or interest in the suit property and, therefore, have no locus standi to file the present application. The application has been filed only with a view to protract the proceedings. It is submitted that the applicants would not suffer any prejudice if they are not impleaded as parties, whereas their impleadment would unnecessarily complicate the proceedings. They have, therefore, prayed for rejection of the application.

5. Heard both sides. Perused the record as well as the written notes of arguments filed by the applicants at Exh. 40.

6. The applicants seek impleadment on the ground that they have a legal interest in the suit properties.

Applicant No. 2, Somaiya Jayesh Dongre, is the daughter of the plaintiff. It is their contention that the suit properties are ancestral properties and that, Applicant No. 2 being a coparcener, she has a birthright therein.

7. On perusal of the plaint, it is evident that the plaintiff has specifically pleaded that the suit properties are ancestral properties belonging to the plaintiff and the defendants. A perusal of the written statements filed by defendant Nos. 2 to 5 also reveals that they have not denied the ancestral nature of the suit properties. The suit is also for partition of the suit properties.

8. In these circumstances, admittedly Applicant No. 2 being daughter of the plaintiff, she would, by virtue of Section 6 of the Hindu Succession (Amendment) Act, 2005, acquire the status of a coparcener and a birthright in the ancestral property. The relationship between the plaintiff and Applicant No. 2 has not been disputed by any of the parties.

9. If the plaintiff ultimately succeeds in establishing that the Release Deed dated 9.11.2021 is null and void, the Court would be required to determine the shares of all coparceners in the suit properties. Since the present suit is one for partition also, the presence of

Applicant No. 2 is necessary for the effective and complete adjudication of the issues involved. In her absence, no effective decree determining the respective shares of all interested persons can be passed.

10. The objection raised by defendant Nos. 2 to 5 that the applicants have no right, title, or interest in the suit properties would have merit only if the suit properties were not ancestral in nature. In the present case, however, the suit properties have been pleaded to be ancestral property, and its ancestral character has not been denied by the contesting defendants. Consequently, the said objection is devoid of merit.

11. Applicant No. 2 is admittedly a minor. Consequently, her interests are required to be represented by her natural guardian. Applicant No. 1, being her mother and natural guardian, is a proper person to represent and safeguard the interests of the minor during the pendency of the proceedings. Accordingly, Applicant No. 2 is a necessary party to the suit, and Applicant No. 1 is a proper party for representing the minor. Their impleadment is essential for the complete and effective adjudication of the controversy involved in the suit. Therefore the application deserves to be allowed. Hence, the following order:

	ORDER
1.	The Application Exh.34 is allowed.
2.	Applicant No. 2, Somaiya Jayesh Dongre, shall be impleaded as Defendant No. 6 in the suit through her natural guardian, Applicant No. 1, Vanita Jayesh Dongre.
3.	The plaintiff shall carry out the necessary amendment in the plaint and file the amended copy on record.
	(Pronounced and dictated in open Court.)

Date 01/07/2026
Place: Malvan

Sd/-
(M.K.Fakih)
Judicial Magistrate.,F.C.,
Malvan.