

**R.C.S.No. 69/2013**

Ravindra Parab Vs. Pandurang Parab & Ors.

**Order below Exh. 51**

The present application is filed by the plaintiff under Order 1 Rule 10 and under Order 6 Rule 17 of Code of Civil Procedure for impleading necessary party as deft. no. 10 and for the amendment of the plaint in that respect.

**2.** Read the application. Also read the say filed by defendant no.1. Heard Ld. counsel Shri.A.A.Gogate for plaintiff and Ld. senior counsel Shri.A.M.Mangaonkar for defendant no.1. According to plaintiff suit property 'C' 2 i.e. house G.P. No. 228 is recorded in the name of son of deft. no. 1. But he was not party to the suit. He is necessary party as property in his name was included in the suit. For these reasons son of deft. no. 1 namely Shahu Pandurang Parab be impleaded in a suit and plaintiff be permitted to carry out amendment to that effect. Application is strongly objected by deft. no. 1. According to him, no sufficient explanation given by the plaintiff about delay. Now hearing of the suit is begin. Application is barred by proviso of Order 6 Rule 17 of Code of Civil Procedure. Hence it be rejected.

**3.** Perused record and proceeding. Plaintiff has brought suit for partition and separate possession in respect of suit land and suit house properties. The documents produced by the plaintiff shows that, house G.P. No. 228 was in the name of son of deft. no. 1 prior to the filing of suit. The written statement of the deft. no. 1 also discloses that, he raised specific defence in respect of that property as a suit property is constructed by his son from his own income. Considering pleading of both the parties son of the deft. no. 1 is necessary party for the adjudication of the claim over suit house property G.P. No. 228. In the absence of son of deft. no. 1, rights in respect of that property cannot be adjudicated. It is matter of the fact that, plaintiff has

not sought any explanation about delay. However, he has not given sufficient explanation, why he has not impleaded son of deft. no. 1 at the initial stage of the proceeding. However, considering the nature of the suit and as the son of deft.no. 1 is a necessary party to the suit, it would just and proper to allow the plaintiff for impleading Shahu Pandurang Parab as party to the suit. Also it is necessary to impose heavy cost on the plaintiff as he failed to sought any explanation about the delay. Hence, the following order.

- **ORDER** -

- (1) Application is allowed subject to cost of Rs. 400/-. Out of which Rs. 200/- be paid to the defendant no.1 and remaining be credited to Government.
- (2) Plaintiff is directed to implead Shahu Pandurang Parab as deft. no. 10 and he be carry out amendment to that effect and submit the amended copies of the plaint immediately.
- (3) Cost in the final cause.

Date :- 12/01/2016

( **K.K.Mane** )  
Civil Judge (J.D.), Deogad.