

**R.C.S. No. 59/2017**  
**(Smt. Laxmi vs. Sau. Sangita & Anr.)**  
**(CNR: MHSN020002072017)**

**Order below Exh.71**  
**(Date 20.10.2022)**

1. The present application is filed by defendant No.1 under Order I, Rule 10 C.P.C. for impleadment of Shri. Ankush Laxman Koli & President/ Deputy Commissioner, Mumbai Iron and Steel Workers Board Kalamboli, Tal. Panvel, Dist. Raigad as defendant Nos.3 & 4.

Plaintiff filed say vide Exh. 80 and resist the application for reasons mentioned therein.

2. According to defendant No.1, despite the declaration that she is the legal heir of plaintiff in R.C.S. No.145/15, one Ankush Laxman Koli, son of the alleged plaintiff's brother, having no relation with the father of defendant No.1, got employment in Mumbai Iron and Steel Workers Board, Kalamboli in place of deceased Ganesh Dattatray Koli, who was appointed on compassionate grounds by Dattatray Balbhim, father of defendant No.1. This is pure fraud with the Board, unless Ankush Koli and the Board join the suit, the real facts cannot be brought on record. Therefore, they should be added as defendants under Order I, Rule 10 C.P.C.

Per Contra, it is contention of plaintiff that defendant has filed this application only to delay the trial, no documents relating to the alleged fraud of Ankush have been placed on record. If Ankush had cheated, the respondent should have complained to the Board. Actually Ankush Koli and Mandal have nothing to do with this suit. The present suit is filed for annulment of the decree passed in R.C.S.No.145/15 and for injunction. Hence no need to add them as party to the suit.

3. The question of impleadment of a party has to be decided on the touchstone of Order I, Rule 10 which provides only a necessary or a proper party may be added. In the light of the clear language of the rule, it is not open to plaintiff to contend that a person cannot be added as defendant even in a case where his presence to enable the Court to decide the matter effectively. A necessary party is one without whom no order can be made effectively. A proper party is one in whose absence an effective order can be made but whose presence is necessary for a complete and final decision on the question involved in the proceeding. The Court is empowered to join a person whose presence is necessary for the prescribed purpose and cannot under the rule direct the addition of a person whose presence is not necessary for that purpose.

In present matter, plaintiff has filed this suit against the defendants to declare that civil death declaration of plaintiff obtained by defendant no.1 in R.C.S.No.145/15 to be null & void and for injunction to use of that decree for committing any illegal act endangering the life of plaintiff & for employment at place of Ganesh Koli. In such a case, the proposed defendants is not necessary to enable the Court to effectively decide the matter, nor their presence is required to make an effective order. Plaintiff has failed to establish as to why the board & Ankush Koli are a necessary or even a proper party in the suit even when no relief is claimed against them. Hence, passed the following order.

### **ORDER**

Application stands rejected.

(D. R. Deshmukh)  
Jt. Civil Judge Sr. Dn., Sangli.

**CERTIFICATE**

I affirm that the contents of this PDF file are same as per original.

Name of Stenographer :- R. B. Samalewale

Name of the Court :- Shri. D. R. Deshmukh  
Jt. Civil Judge Sr. Dn., Sangli.

Date of decision :- 20.10.2022

Order signed by P.O. on :- 20.10.2022

Order uploaded on :- 21.10.2022