

ORDER BELOW EXH. 55 IN R.C.S NO.66/2015
Jagannath Vs. Maruti & Ors.
CNRNO.MHJN070005532015

This application is filed by transferee from the plaintiff pendente lite under order 22 rule 10 and under order 1 rule 10 of the Code of Civil Procedure, 1908 for permission to continue the suit along with original plaintiff.

02. Applicant submitted that during the pendency of the suit, the plaintiff has gifted suit property to him by way of registered gift deed dated 07-12-2021. Applicant is in possession over the suit property on the basis of said gift deed. Therefore, applicant got interest in the suit property by way of gift deed executed by the plaintiff. Applicant got interest in the suit property during the pendency of the suit, therefore, it is necessary that applicant be added as plaintiff along with original plaintiff. The presence of applicant is necessary to determine real question in controversy between the parties. Hence, he prayed that application be allowed.

03. The original plaintiff filed his reply and thereby submitted that he has no objection to allow the application. Defendant No. 1 to 6 filed their reply and thereby objected this application. They contended that present application is filed only to prolong the trial. The present applicant was not party to proceeding before the Ld. Mamalatdar. Therefore, this application is not maintainable. In view of above reasons, they prayed for rejection of application.

04. Perused the application and reply. Heard arguments of both parties. The plaintiff has admitted that he has created interest in the suit property in favour of present applicant. Further, he has no objection for impleading the applicant as another plaintiff. This application is filed under order 22 rule 10 of the C.P.C. As per this

provision, if interest is created during the pendency of the suit, the suit may by leave of the court be continued by person to whom such interest has come or devolved. Applicant has filed on record copy of Mutation Entry No. 4665, which shows that plaintiff has gifted the suit property to the present applicant. Therefore, interest has been created in favour of present applicant. The suit is for declaration and perpetual injunction. Applicant wants him to be impleaded as one of the plaintiff. Applicant being transferee from a party to a suit gets interest in the suit property and has as a right to be substituted along with the transferor in the suit itself under the provision of under order 22 rule 10 of the C.P.C. Therefore, leave shall be granted to applicant to continue the suit along with original plaintiff.

05. In view of above reasons, I come to conclusion that application deserves to be allowed. In the result, I pass the following order:-

ORDER

1. Application at Exh. 55 is hereby allowed.
2. Applicant is permitted to continue this suit along with original plaintiff. He is impleaded as plaintiff No.2 in the suit.
3. Original plaintiff is directed to carry out necessary amendment in title clause on or before next date.
4. No order as to costs.

Date: 12/01/2024
Kavathe-Mahankal.

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(Arun R. Vyawahare)
Civil Judge, Junior Division,
Kavathe-Mahankal.

Certificate

I affirm that the contents of this P.D.F. file order are same, word to word, as per the original order.

Name of the Stenographer - H.P.Haridas

Court - CJJD and JMFC, Kavathemahankal.

Date -12.1.2024

Order signed by the

Presiding Officer on -12.1.2024

Order uploaded on -13.1.2024