

ORDER BELOW EXH.31
IN R.C.S.No.112/2016

1- This is an application filed by third party to implead them as a defendants in the present suit.

2- Applicant submitted that present suit is filed for partition, possession, declaration and injunction. Plaintiff has submitted in the plaint the genealogy of Subrao. Actually, the originator Yedu Ravji Ramoshi and Renuka Yedu Ramoshi were the originator. After the death of both these persons partition took place amongst the heirs i.e. Rajaram, Vithoba, Subrao and Bayakka. This fact is not brought on record by the plaintiff. He wants mislead the Court. Further plaintiff intended to grab the share of applicants. The pleading regarding relinquish deed and partition are not admitted to the applicants. These applicants are illiterate and deed took place behind back of these applicants. Therefore, it is necessary to implead these applicants so as to proper adjudication of the matter.

3- Plaintiff submitted his say at Exh.43. The contents in the application are ambiguous. Plaintiff wants to partition against his relatives and therefore, he has submitted the genealogy which is required for the suit. Applicants also not stated any reason for impleading them as a party to the proceeding. Further they have not mentioned any relationship with the plaintiff. Hence, prayed for rejection of the application.

4- After perusal of the rival pleadings following points arise for my consideration.

<u>POINTS.</u>	<u>FINDINGS.</u>
1. Whether the applicants are the necessary party to the suit for effective adjudication of the matter ?	--- Negative.
2. What order ?	--- Application is rejected.

REASONS.

AS TO POINT NO.1.

5- In spite of repeated opportunity both the parties remained absent and failed to advance argument on this application.

6- After perusal of plaint, it appears that present suit is filed on 25.08.2016 for partition, possession, declaration and injunction. Plaintiff in the plaint submitted the genealogy of Subrao. He pleaded that the suit property was originally belongs to Subrao Yesu Naik and further alleged the fact of partition. Applicants submitted present application on 24.10.2016. They failed to mention the relationship with the plaintiff. Further they have not produced any record to show that they have nexus with the suit property. In such circumstances, it will not be just and proper to implead them as defendants. Further plaintiff being master of suit is at liberty to proceed against particulars persons. In such circumstances, it does not appear that applicants are necessary parties

for effective adjudication of the matter. Therefore, application deserves to be rejected. Hence I answer point No.1 in the negative and proceed to pass following order.

ORDER

1. Application is rejected.
2. No order as to costs.

Date : 04/03/2020

Kvathe-Mahankal.

[S.A.Kulkarni]
Civil Judge (J.D.),
Kvathe-Mahankal.