

ORDER BELOW EXH.33

This is an application filed by the applicant/third party namely Vijay Ankush Jankar under Order 1 Rule 10 read with 151 of the Code of Civil Procedure for adding him as a defendant. It is averment of the applicant that Tahsildar Khanapur-Vita granted the road from suit property Gat No.285 of Mouje Bhendawade, Tal.Khanapur, Dist.Sangli in favour of defendant No.2. Defendant No.1 is father of applicant/third party. Defendant No.1 died on 02.06.2021. The applicant/ third party is legal heir of defendant No.1. The right to defend the suit arose in favour of applicant third party. It is further averred that defendant No.2 sold OH.34R land out of Gat No.798 to applicant third party on 04.12.2023. The applicant third party is necessary party. Hence, he urged for grant of application.

02. Per contra, the plaintiff filed his say at Exh.38. He opposed the application and denied the whole contention in toto. He contended that the applicant/ third party has no any right to appear in the matter. The applicant/ third party is not necessary party. The suit is for simplicitor perpetual injunction and no need to bring legal heirs of deceased defendant No.1. He further contended that applicant/ third party has not filed sale deed dated 04.12.2023 on record. Hence, he urged for rejection of this application.

03. Perused record. Heard ld. Counsel on behalf of plaintiff and applicant/third party. Instant suit is for simplicitor perpetual injunction. After perusal of the record it reflects that during the pendency of the suit, the defendant No.1 Ankush Dagadu Jankar died and applicant/third party is legal heir. The applicant third party purchased the share of defendant No.2 from Gat No.798 of Mouje Bhendawade, Tal.Khanapur,

Dist.Sangli. For adjudication of real controversy between the party, the applicant/third party is necessary party in the suit. Therefore, no prejudice would be caused to other side if instant application will be allowed in view of Order 1 Rule 10 and Order 6 Rule 17 read with 151 of the Code of the Civil Procedure. Hence, I proceed to pass the following order;

ORDER

1. Application at Exh.33 is hereby allowed in the interest of justice.
2. The plaintiff shall comply the order within stipulated period and add applicant/third party Vijay Ankush Jankar as defendant No.3 in the suit.
3. The plaintiff shall file amended plaint on record and supply copy of amended plaint to other side without fail.
4. The in-charge of C.I.S. shall take note and comply the order in C.I.S.
5. Costs in cause.

Vita.
Date:- 05.08.2024.

(M.Sharique A.U. Rahman)
Jt.Civil Judge Jr. Dn., Vita
Tal. Khanapur, Dist-Sangli.

CERTIFICATE

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

Name of Stenographer :- S.V.Gaikwad,
Name of the Court :- M.S.A.U. Rahman,
Jt.Civil Judge Jr. Dn., & J.M.F.C.,
Vita. Tal:-Khanapur.
Date of decision :- 05.08.2024
Order signed by P.O. on :- 05.08.2024
Order uploaded on :- 05.08.2024.