

Regular Civil Suit no.1086/2020
(Shailaja Gaikwad V/s. Bhiku Gore & Ors.)
ORDER BELOW EXHIBIT 28

1. The present application is filed on behalf of plaintiff under provision of O.I R.10 of Code of Civil Procedure, 1908 (hereinafter referred as 'CPC')

2. In the present application it is averted that, plaintiff has instituted present suit for partition and separate possession. On the 7/12 extract of Gat no.5 Shri Janabai Devi Devsthan i.e. trust is shown possessor. The administration of devesthan is regulated by panch members. Thus, to remove any technical difficulties plaintiff seek permission to add Sri Janabai Devi Trust as party to suit.

3. It is further contention of plaintiff that, out of the panch members 3 panch members namely Sudam Pandurang Gaikwad is died on 25.10.2008, Maruti Sakharam Gaikwad is died on 28.05.2016 and Shivram Balu Gore is died on 29.12.2000. Thus, as representative of Shri Janabai Devi Devsthan the following members of panch trustees be made as party to suit, and defendant no.3-Shri Janabai Devi Devsthan Trust through

3(a) Bhagwant@ Bhagwan Annasaheb Gaikwad

3(b) Eknath Hiriji Gaikwad

3(c) Ramhari Krishna Gore.

4. Say of defendant is called upon. The defendant by the written say vide Exh.35 objected the application. It is contention of defendant that, plaintiff has admitted the fact that on 7/12 extract of Gat no.5, in possessor clause there is entry in name of 'Shri Janabai Devi'. It is also admitted that, three trustees are death. Thus, the plaintiff was required to made Charitable Commissioner as party to suit.

5. It is further contention of defendant that, plaintiff has earlier filed same nature of application vide Exh.25 before this court. However the said application was rejected. The plaintiff with intention to delay the proceedings of suit has filed the application. Hence, the application be rejected with heavy cost.

6. Heard the Ld.Advocates of plaintiff and defendant at length. From perusal of order below Exh.25 it reveals that, the said application was rejected by this court on the ground that all trustee members are not made parties to the suit. However, it is pertinent to note that, in paragraph of the plaint plaintiff has specifically mentioned that, she is seeking no relief against an area of 2R which is sold by defendant in favor of Shri Janabai Devi Trust.

7. O.I R.10 of CPC provides that, "*for the determination of real matter in dispute, the court may, order any other person to be substituted or added as plaintiff, upon such terms as the court may think just*". As discussed above plaintiff has clearly pleaded that, she sought no relief against the Janabai Devasthan. The plaintiff is seeking to add Shri Janabai Devasthan as party to suit mere on the ground that, the said trust is one of the possessor in Gat no.5. The land in possession of trust is not matter in dispute in the present suit. Only to remove technical difficulties the plaintiff is seeking addition of name of Janabai Trust in suit.

8. The Ld.Advocate for defendant has objected the application on the ground that, as some trustees in the Janabai trust are died, Charity Commissioner was necessary to made party in suit. However, it is necessary to considered that, the role of Charity Commissioner is adjudicating authority. Plaintiff not seeking any relief against the Janabai Trust. Thus,

formally any one of the representative of trust can be made party to suit. Hence, this objection is not maintainable. Thus, considering the above all discussion, I proceed the pass following order.

ORDER

1. Application vide Exh.28 is hereby allowed.
2. Plaintiff is directed to carry out necessary amendment in suit.
3. After amendment of plaint suit summons be issued to defendant no.3.
4. No order as to cost.

Date : 07.11.2025

(Smt. P. M. Suryawanshi)
2nd Jt. Joint Civil Judge Junior Division,
Vita, Tal.Khanapur, Dist.Sangli