

CNR NO. MHSO060001922025



R.C.S. No. 15/2025

Madhukar Jagtap

V/s.

State of Maharashtra & Ors.

**Order below Exh. 30**  
**(Delivered on 20<sup>th</sup> June 2025)**

This application is filed by Hajrat LatifShaBaba Dargha Trust under Order 1 Rule 10 of the CPC.

02. It is stated by the applicant in the application that the property mentioned in para no.1 of plaint bearing Gat No.2368 was having Survey No.963. Plaintiff has filed suit about said property. In said property there are temporary 3 Kiosks. Defendants are not having any concern with that Kiosks. Plaintiff has claimed perpetual injunction against defendants stating that they should not obstruct his peaceful possession.

03. The suit property mentioned in plaint having survey No.963 is owned and possessed by the applicant trust. Plaintiff is not having any right and concern with that entire property. Despite of that by making false pleadings suit is filed by plaintiff. This applicant has recently got knowledge about that. As such in order to establish the rights he is necessary party to the suit. Therefore this application is filed to add this applicant in the array of defendants. Further it is stated that Spl.C.S.No.288/2022 is pending in this court with respect of the ancestral property of applicant situated at Mangalwedha. The survey

number mentioned by the plaintiff is involved in said suit. If at all this applicant is added as defendant in the suit then there is no loss to the plaintiff. On the contrary if this applicant is not added as defendant then he will sustain great and irreparable loss. Further, there may be multiplicity of litigations hence he prayed to allow the application.

04. At Exh.54 plaintiff has filed say to the application filed by the applicant to add him as defendant. Application is opposed on the grounds that, it is not legal. This plaintiff is not party to Spl.C.S.No.288/2022. This applicant is not having any concern with the suit property. Plaintiff has not claimed any relief against this applicant. Plaintiff has not accrued any cause of action against this applicant. Plaintiff has claimed relief against defendant Nos.1 to 4 on the basis of notice issued by defendant No.4. In such a circumstances this applicant is not necessary party to present suit. No any reason is there to add him as defendant. As such, prayed to reject the application with costs.

05. Heard learned advocate Shri. S. S. Joshi for applicant. He has submitted that this application is filed on behalf of Hajrat LatifShaBaba Dargha Trust. Survey No.963 belongs to said Darga. Plaintiff and defendants are not having any concern with said survey number. Land from this survey number was illegally acquired. Said land was owned by Akil Ahamad. This is his ancestral property. This applicant has already filed Spl.C.S.No.288/2022 which is pending before this court. In that suit mutation entry No.1 dated 31.01.1977 is challenged. As the suit is filed with respect to Gat No.2368 which was

having original Survey No.963. As submitted above this applicant is owner and possessor of survey No.963 therefore he is having right and interest in that property. As such without hearing him dispute in the suit can not be heard and decided. Therefore he is necessary party to the suit.

06. Heard learned advocate Shri. Badodkar. He has submitted that the scope of this suit is very limited. Plaintiff has challenged notice issued by defendant No.4 and therefore the suit is filed against defendant Nos. 1 to 4. Plaintiff has purchased property in the year 1970. Since last 54 years this applicant is not having any concern with this suit property. If extract of 7/12 is perused name of this applicant is entered to survey No.963/3. No prima facie evidence is necessary to add him as party. Nothing is on record to show that this applicant is having any concern with the suit property. Plaintiff is not party to Spl.C.S.No.288/2022. This itself is sufficient to show that the property which is owned and possessed by this applicant is different then the suit property. At the last he prayed to reject the application.

07. After hearing both sides at length. Perused documents below list Exh.34. It is Prati book of survey No.963. The name of possessor is mentioned as Karda Mahamad Raza Abbas Ali son of Papasha Fakir. In the extract of 7/12 name of Ibram Sha Abbas Alisha Fakir is mentioned as owner and possessor. Considering these documents on which this applicant has placed his reliance no where it is reveled that this applicant is owner and possessor of that land. Further perusal of those documents it is not reveled that as to what is

the relevance of those documents with respect to the suit property. If the mutation entry No.1 is perused it is dated 31.01.1977. It is with respect to the consolidation. Considering documents produced on record by this applicant and submission made by learned advocate Shri. Joshi this applicant has failed to show that he is having any legal right in the suit property. Further, he has failed to show that how this applicant is necessary and proper party to the suit, without adding him how the suit is not maintainable. In order to add a person as third party it is his duty to show that without adding him the suit can not be decided. In this suit the plaintiff is only claiming that he is owner and possessor of land Gat No.2368 admeasuring 2H.62R. out of that the 3 Kiosks towards the Northern side of said land. Defendant No.4 has issued notice to plaintiff to remove those Kiosks as that is encroachment and therefore plaintiff has sought declaration that he is owner of the suit property. Further he is claiming possession over the suit property therefore he has sought perpetual injunction against those defendants. Considering the above entire nature of the suit and facts that this applicant has failed to establish that he is having any right in the suit property, therefore, he is necessary party to the suit. As such the application being devoid of merits is liable to be rejected. Therefore, I pass following order.

**ORDER**

Application is rejected.

**Date :- 20/06/2025.**  
**Place :- Pandharpur.**

**(M. B. Kulkarni)**  
**2<sup>nd</sup> Jt. Civil Judge, Senior Division**  
**Pandharpur**

**CERTIFICATE**

I, affirm that the contents of this PDF file Order/Judgment are same word to word, as per the original order/Judgment.

Name of Employee	:	Shirsikar V. G., Stenographer
Court	:	Jt. C.J.S.D. Pandharpur
Date	:	20.06.2025
Judgment/order signed by the Presiding Officer on	:	20.06.2025
Judgment/Order uploaded on	:	20.06.2025

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