

**Order Below Exh. 59**

Third party has moved the present application for his addition as a party-defendant by taking recourse to Order 1 Rule 10 of the Code of Civil Procedure, 1908, contending therein that, he has purchased the plot no.71 on 04/07/2006 by way of registered sale deed and in actual possession of it. According to the third party, the said plot no.71 is part of the suit property as mentioned by the plaintiff in the plaint. As per third party, mother and grand-mother of present plaintiff no.1 and 2 obstructed to his possession and so, he has filed one suit bearing R.C.S.No.83/2007 against them for injunction in which present plaintiff are as a party-defendant and they have also filed counter claim. As plaintiff demanded partition of the whole suit property and so, result of the litigation will affect him. Further, the present third party also contended that, plaintiffs have also filed one application bearing M.A.No.197/2018 which has been decided by the Hon'ble District Court on 16/01/2020 and in which R.C.S.No.83/2007 is also transferred to this Court. In short, as per third party, he is purchaser of the part of the suit property and so, needs to be added as party defendant in the present suit.

02. Application is strongly opposed by the plaintiffs vide say below Exh.71, in which it is contended that, third party has concealed the facts. According to the plaintiff, this third party was having knowledge of the present suit and in spite of that, he has purchased the part of the suit property and trying to

dispossess plaintiffs. According to the plaintiff, sale deed is false and bogus and it is executed by taking undue advantage of his position. Suit of the plaintiff is for partition and third party is not concerned and so, not to be added as a party defendant in the present suit. So, plaintiffs requested for rejection of the application.

03. Heard both learned counsel for the parties. Perused the record. It appears from the record that, present suit is filed on 22/05/2006 and it appears that, part of the suit property is transferred in favour of third party on 04/07/2006 by way of registered sale deed which is during the pendency of the suit. It also appears from the record that, the present third party has filed civil suit bearing no.83/2007 against Akkatai Hatgire and others in which present plaintiffs have also been added later on as defendants. It also appears that, R.C.S.No.83/2007 has been transferred to this Court for simultaneous disposal as per order of the Hon'ble District Court in M.A.No.197/2018.

It is settled law that, party be added to suit to enable the Court to effectively adjudicate the question involved in the suit and for that the Court has to come to the finding that the party is a necessary party or a proper party. Here, in view of sale deed dated 04/07/2006 an interest in the suit property is created in favour of the present third party so, obviously a third party has a direct interest in the part of the suit property in view of that registered sale deed. Even the sale deed has been executed

during the pendency of this suit. Here, when part of the suit property i.e. 'plot' has been transferred in favour of the present third party that too, during the pendency of the present suit, then the lis pendens purchaser/third party will be left in the lurch because only he could properly defend his interest who is bound by the result of present suit. In these facts and circumstances in my opinion, this third party is a proper party and needs to be added as a party-defendant in this suit. Consequently, the following order.

**O R D E R**

- 1) Application is allowed.
- 2) Present third party be added as a party defendant in this suit.
- 3) Plaintiff to carryout amendment accordingly and file amended copy of plaint on or before next date.

Karad.  
Date :-11/04/2022.

(Y.H.S. Deshmukh)  
Jt. Civil Judge Senior Division,  
Karad.