

ORDER BELOW EXH.37 IN R.C.S NO.293/2012
(Aruna Nikarm and anr v. Shrinrang Nikam and ors.)

Applicants filed present application to implead them as defendants in the present suit.

02. Plaintiffs strongly resisted present application by filing say at Exh. 43. Defendant Nos. 1 to 4 filed their say at Exh. 41 and contended that, the application Exh. 37 may be allowed. Heard learned advocates for plaintiffs, defendants and applicants, at length.

03. Learned advocate for applicants submitted at bar that, the plaintiff has filed present suit for partition and separate possession of joint family properties. Defendant No. 1 is brother of applicants. Suit properties are ancestral properties of defendant No. 1 and applicants. Hence, applicants have right and interest in suit properties. Therefore, they are necessary and proper parties to the present suit. Hence, the application may be allowed.

04. Learned advocate for defendant Nos. 1 to 4 submitted at bar that, defendant Nos. 1 to 4 have no objection and the application may be allowed.

05. On the other hand, learned advocate for plaintiffs submitted at bar that, applicants have filed present application in collusion with defendants. Suit properties are in the name of defendant No. 1 since death of ancestors of defendant No. 1 and applicants. Applicants have not taken any objection to the entry of defendant No. 1 in the 7/12th extract of suit properties. Moreover, till today applicants have not filed any suit for partition against defendant No. 1 in respect of suit properties. Therefore, applicants have no right and interest in suit properties. Hence, application may be rejected with cost.

06. On perusal of record and proceeding it appears that, suit properties are ancestral properties of defendant No. 1 and applicants. The present suit is filed by grand daughter of defendant No. 1 and by widow of son of defendant No. 1. This is a suit for partition and separate possession of ancestral Hindu joint family properties. Hence, in view of nature of suit and suit properties and relation of applicants with defendant No. 1, it appears that, applicants are necessary and proper parties to the present suit. Therefore, applicants have to be given chance to appear and contest the suit. Moreover, there will not be any prejudice to plaintiffs, if present application is allowed. Hence, it is just and proper to allow present application. Resultantly, I pass following order :-

ORDER

1. The application Exh.37 is hereby allowed.
2. Applicants be added as parties to the suit in the array of the defendants.
3. Plaintiffs shall carry out amendment accordingly within limitation.
4. Applicants shall file their written statement suo-motu after filing of amended plaint by plaintiffs.
5. Parties to bear their own costs.

(Dictated and pronounced in the open Court).

Karad.

Date: 24.11.2015

(Balasaheb S. Gaikwad)
6th Jt. Civil Judge, Jr. Division,
Karad.