

MHST070011522011



**Order Below Exh.157 in R.C.S. 167/2011
(Raju Vasant Thoravade Vs. Yashwant Anant Jadhav)**

1. This application is filed by the plaintiff for adding proposed defendant No. 14 Tanaji Laxman Patil. It is contended that, after filing of the suit, on 20/03/2025, the defendant No. 5 has sold his land out of the suit property to the proposed defendant No. 14 Tanaji Laxman Patil by way of registered sale-deed bearing day book No. 1692/2025 dated 20/03/2025. Name of the proposed defendant No. 14 is also recorded in 7/12 extract of the suit property by way of ME No. 45133. The defendant has sold the property to the proposed defendant during the pendency of the suit. Hence, the proposed defendant is also necessary party for deciding the present suit. Therefore, it is also necessary to add the purchaser as party defendant in the present suit. Therefore, the plaintiff prayed to allow the application.

2. Proposed defendant No. 14 opposed the application by filing say. It is contended that, this application is not maintainable. The plaintiff has obtained tenancy certificate by filing case against deceased person. The suit property is not ancestral or self acquired property of the plaintiff. This application is filed only to create multiplicity and confusion.

3. The proposed defendant further contended that, he has purchased the property by paying consideration. Said property is non agricultural property having RCC construction. The plaintiff is not having any right in the purchased property by the proposed defendant. The suit property and property purchased by the proposed defendant are separate properties. Hence, this application is not maintainable.

4. The proposed defendant further contended that, the plaintiff has filed another civil Suit RCS No. 155/2020 against the defendant Nos. 1 to 12. The proposed defendant has sumoto appeared in the said suit and contested the application for temporary injunction. The Court has already rejected interim application of the plaintiff in RCS No. 155/2020. If, the proposed defendant is added in the present suit then, he will have to incure expenses and also cause his harassment. Proposed defendant is not necessary party for deciding the suit. Contending all these, the proposed defendant prayed to reject the application.

5. Following points arise for my determination and I have given my findings to it for the reason stated below :

Sr. Nos.	Points	Findings
1.	Whether proposed defendant is necessary party to adjudicate and settle the suit?	In the affirmative
2.	What order ?	As per final order.

6. Heard Smt. H. E. Salunkhe learned counsel for the plaintiff and Shri. N. P. Jadhav learned counsel for the proposed defendant No. 14.

7. Perused the record.

REASONS

AS TO POINT NOS. 1 TO 3 :

8. All these points are interlinked. Therefore, I am deciding these points together.

9. Learned counsel for the plaintiff submits that, the proposed defendant has acquired rights in the suit property during the pendency of the suit. Hence, the proposed defendant is necessary party in the present suit. She therefore, prayed to allow the application.

10. Per contra, learned counsel for the proposed defendant No. 14 submits that, the plaintiff has obtained tenancy certificate by filing case against deceased person. The suit property is not ancestral or self acquired property of the plaintiff. The proposed defendant has purchased property which is non agricultural property having RCC construction. The plaintiff is not having any right in the purchased property by the proposed defendant. The suit property and property purchased by the proposed defendant are separate properties. The plaintiff has filed another civil Suit RCS No. 155/2020 against the defendant Nos. 1 to 12. The proposed defendant has sumoto appeared in the said suit and contested the application for temporary injunction

and Court has already rejected interim application of the plaintiff in RCS No. 155/2020. If, the proposed defendant is added in the present suit then, he will have to incur expenses and also cause his harassment. Proposed defendant is not necessary party for deciding the suit. He therefore, prayed to reject the application.

11. The plaintiff is praying for adding proposed defendant as party to the present suit. Order I, Rule 10(2) of the Code of Civil Procedure, 1908, provides as under.

“the court may at any stage of the proceeding either upon or without the application of either party, and on such terms as may appear to the Court just, order that any party be joined as a plaintiff or defendant whose presence before the Court may be necessary in order to enable the Court to effectually and completely adjudicate upon and settle all the questions involved in the suit.”

12. Bare reading of the above mentioned provision shows that, at any stage of the proceeding, the Court can add any party which it seems necessary for the adjudication between the question between the parties.

13. Record of the case shows that, the suit is filed for declaration that sale-deed executed in favour of plaintiff Nos. 1 to 4 and 5 to 7 and 13 are not binding on the plaintiff and for recovery of possession and mesne profit. It is the case of the plaintiff that proposed defendant No. 14 has purchased the suit property during pendency of the present suit. The application is opposed mainly on the ground that

RCS No. 155/2020 is pending and the proposed defendant No. 14 has appeared in said suit. However, record shows that, this suit is filed prior to the said suit. Prayers in said suit and present suit are also different. It is admitted to the proposed defendant No. 14 that, the property is purchased during the pendency of the suit without obtaining permission from the Court. The plaintiff is already claiming reliefs against the defendant who has sold the property defendant No. 14. Therefore, if separate suit is brought, then similar issue will arise. Therefore, proposed defendant is necessary party to the present suit. Hence, there is no force in the submission advanced on behalf of the proposed defendant No. 14. Therefore, this application deserves to be allowed. Hence, I record my affirmative findings to the point No. 1 and in answer to point no. 2, I pass following order,

ORDER

1. The application at Exh. 157 is allowed.
2. Proposed defendant No. 14 is added as a party defendant to the present suit.
3. The plaintiff is directed to carry out necessary amendment within 14 days from today.

Date : 18/03/2026

(Prashant P Kulkarni)
4th Jt. Civil Judge Junior Division,
Karad.