

**MHST100006032019****R.C.S.No. 44/2019****(Maruti Dhondiba Gole****Vs.****Smt. Draupadi Kondiba Gole etc****ORDER BELOW EXH.89 IN R.C.S.NO.44/2019**

The plaintiff filed suit for partition and filed this application vide order I Rule 10 Sub-clause 2 of the C.P.C. According to the plaintiff due to the over sight and typographical mistake some of the parties are not made party to the suit. According to the plaintiff, Bhiva having son namely Genu who is having son namely Dhondiba and Dhondiba is having five issues. However, due to the mistake his 4th issue namely Shantabai is not made party to the suit. Thereafter Dhondiba's son Kondiba is having 6<sup>th</sup> issues out which 6<sup>th</sup> issue namely Chaya is not made party to the suit. Therefore, according to the plaintiff as the suit is for partition and it is necessary to include all the parties in the suit. Therefore, it is necessary to add Shantabai Gole and Chaya Chaudhari as Defendant no. 13 and 14 in the suit. Further according to the plaintiff such contents are necessary to be included in the original plaint. Hence plaintiff prayed that his application may kindly be allowed.

2. On the other hand the defendant's did not filed any say, to this application. Though sufficient reason was given to them. Therefore, no say order was passed against the defendant's.

3. In support of the application the plaintiff filed written notes of argument vide Exh. 91 and prayed that the application may kindly be allowed. Heard advocate Shri. V. D. Dhumal for the plaintiff

prayed that as per the contents of the application as amendment may kindly be allowed.

4. In this suit the plaintiff filed suit for partition against defendant's. However, according to the plaintiff due to the over sight and due to typographical mistake the Defendant no. 13 and 14 are remained to be added as a party in this suit. Therefore, plaintiff want to amend the plaint and by way of amendment he wanted to include Defendant no. 13 and 14 in the suit. However, the plaintiff have not prescribed any reason as to why at the time of filing of the suit the proposed defendant's are not made party to the suit. The only reason given by the plaintiff's is that due to the over sight due to the typographical mistake they are not made party to the suit. However, not including any party to the suit due to the typographical mistake is not sufficient and proper reason and the proposed amendment is not formal amendment as prayed by the plaintiff. The suit was filed in the year 2019 and thereafter Defendant no. 7 Aabai Wadkar expired. At that time the plaintiff may have amended the suit. However, at that time also the plaintiff have not filed such application to include the defendant's which were remained to be included as defendant due to his over sight or due to the typographical mistake. In this suit the defendant's have filed their written statement and suit is pending for issues. As stated earlier the suit was filed in the year 2019. However, the reasons mentioned in the application are due to the over sight or due to the typographical mistake the proposed defendants are not made party is not the proper reason and as claimed by the plaintiff amendment is formal in nature is also not good ground to allow the application. Because adding the 2 defendant's in the suit, at this suit will not be the formal amendment in the suit. Therefore, for the above

reasons the application without sufficient grounds and reasons is not tenable. Accordingly, I proceed to pass the following order.

ORDER

1. The application below Exh.89 is rejected.
2. No order as to costs.

Date:06/03/2024.  
Mahabaleshwar.

(A. D. Margode)  
Civil Judge, Junior Division,  
Mahabaleshwar.