

RCS NO.259/2018

Banubai(deceased) through

Lr's & Ors. Vs. Shakuntala & Ors.

ORDER BELOW EXH.33

Read an application and reply filed by plaintiffs at Exh. 35. Perused the entire record. Heard the learned counsel for the plaintiffs Adv. Shri. D.L. Pawar and the learned counsel for third person Adv. Shri. P. S. Godse.

2. The third person namely Nilesh Pralhad Pawar filed this instant application and submitted that, the deceased plaintiff Banubai are having son and daughters namely Sayaji Muguttrao Pawar, Pralhad Muguttrao Pawar, Ramchandra Muguttrao Pawar, Chandrakant Muguttrao Pawar, Ranjana Tulishram Mane and Taibai Sadashiv Phadatare. The third person is the son of Pralhad Muguttrao Pawar, who was the son of deceased plaintiff Banubai, but he died. Pralhad Muguttrao Pawar are having legal representatives namely the third person Nilesh Pawar, Suvrna Satyawar Ingale, Rupali Nitin Devkar and Vanita Manoj Jadhav. Plaintiffs entered the name of wrong persons as of legal heirs. The third person are having rights and shares in the suit property and therefore, prayed to add them as of party to suit.

3. On the contrary, plaintiffs filed the reply and opposed to this application on the ground that, the deceased plaintiff Banubai purchased suit property. It is her self acquired property. The son and daughters of deceased plaintiff Banubai are having no right or shares

in the suit property and therefore, third persons are not entitled to be party to the suit and prayed to reject the application.

3. On perusal of record, it appears that, plaintiffs filed this suit against all defendants for removal of encroached portion of land and to recover the possession. It is the contention of plaintiffs that, defendant no. 1 to 3 are the owner of field block no. 447 which is situated in the eastern side of the suit property. They encroached upon 5000 sq. ft. land of the suit property. It is also contention of plaintiffs that, on 17.10.2010, the deceased plaintiff Banubai bequeathed suit property and executed registered Will deed in the right of Satywan Pawar, Vikram Pawar, Rahul Pawar and Dhiraj Pawar. The third person is having no right and interest in the suit property and therefore, prayed to reject the application.

Satyawan Pawar, Vikram Pawar, Rahul Pawar and Dhiraj Pawar are appears to be son of Sayaji Pawar and Chadrakant Pawar. Plaintiffs admitted that, the third person, Suvrna Satyawan Ingale, Rupali Nitin Devkar and Vanita Manoj Jadhav are son and daughters of Pralhad Mugutrao Pawar. Plaintiffs have not denied the relationship of third person with the deceased plaintiff Banubai. Ramchandra Pawar is also one of the son of deceased plaintiff Banubai. Whether the deceased plaintiff Banubai executed Will deed on 17.10.2010 in favour of son of Sayaji Pawar and Chandrakant Pawar will be decided on the merit of case. However, third persons are appears to be having interest in the suit property. Under this circumstances, third persons are necessary party to the suit. No any

prejudice will be caused to plaintiffs, if the third person will be added as of party to the suit. I found substance in the application. Accordingly, I proceed to pass the following order.

ORDER

1. The application is allowed.
2. The third person namely Nilesh Pralhad Pawar, Suvrna Satyawar Ingale, Rupali Nitin Devkar and Vanita Manoj Jadhav be added as of defendants.
3. Plaintiffs are further directed to make them as of defendants and to file amended copy of the plaint till next date.
4. Both the parties are directed to take note of it.

Vaduj
Date: 24.02.2025.

(D.D. Fulzele)
Civil Judge Sr.Dn., Vaduj.