

ORDER BELOW EXH.44

This application is filed by applicant Jayaji Ramchandra Thakre under Order I Rule 10 r/w Section 151 of Code of Civil Procedure, 1908.

2. Applicant Jayaji Ramchandra Thakre submitted that plaintiff filed suit for declaration and mandatory injunction against defendant No.1 to 5. As applicant was a need of cultivating way for his field bearing Gat No.125 & 76, hence he approached Datta Namdeo Thakare i.e. defendant No.1 and Kamalabai Lakshman Raut i.e. defendant No.4 for purchasing 10 R land of Gat No.113.

3. Datta Namdeo Thakare i.e. defendant No.1 agreed to sell 10 R land of Gat No.113 to applicant. Hence, defendant No.1 & 4 approached S.D.O for permission to sell 10 R land from Gat No.113 as per the provisions of Bombay Fragmentation & Consolidation of Holdings Act. Accordingly, permission is granted by S.D.O. Applicant has given Rs.2,50,000/- to defendant No. 1 & 4 as earnest amount. But defendant No.1 & 4 have illegally executed sale deed in favour of defendant No.5 Hence, he prayed that he is necessary party to the suit.

4. On the application of applicant Jayaji Ramchandra Thakre say of plaintiff was called. Plaintiff filed his say and objected the application of applicant Jayaji Ramchandra Thakre and submitted that the court may pass appropriate order.

5. On the contentions of both parties, following points arise for my determination and I record my findings thereon for the reasons mentioned below : -

	<u>Point for Determination</u>	<u>Findings</u>
1	Whether applicant is entitled to be added as party to the suit ?	Yes
2	Whether the application is liable to allowed ?	Yes
3	What order ?	Application is allowed

REASONS

As to point No.1 & 2 :

6. Heard both learned advocates and perused the record. This is suit filed by plaintiff Keshao Haribhau Thakare against defendants for declaration and mandatory injunction. The 10 R land out of Gat No.113 is the disputed property. Plaintiff is claiming share and interest in 10 R land. In the suit itself plaintiff has submitted his apprehension that defendant No.1 may sell 10 R land to defendant No.2 or 3rd party or Jayaji Ramchandra Thakre i.e. the present applicant. The present applicant has submitted that he has paid an amount of Rs.2,50,000/- as an earnest amount to defendant Nos. 1 & 4 for purchase of 10 R land for cultivating way. This shows that the presence of applicant is necessary in order to enable the court, effectually and completely, to adjudicate upon and settled all the question involved in the suit. Hence, the applicant is a necessary party and thus he needs to added as defendant.

7. Thus, in view of my above discussion, I am of the opinion that applicant is a necessary party and therefore, needs to be added and plaintiff needs to be given direction to add applicant as a party to

the suit. Accordingly, I answer point No.1 & 2 in the positive and in answer to point No.3, I pass the following order.

ORDER

1. Application is allowed.
2. Plaintiff is directed to add applicant Jayaji Ramchandra Thakre as a party to the suit and carry out amendment in the plaint accordingly on a before next date.
3. Plaintiff to file amendment plaint after carrying out the amendment.

Date : 07/07/2022

(Smt. N. P. Pawar)
Jt. Civil Judge (Sr. Division), Washim.

Certificate

I affirm that the contents of this P.D.F file Judgment/Order are same word to word, as per the original Judgment/Order.

Court Name : Jt. Civil Judge (S.D.), Washim,
Dist.Washim.

Date : 07.07.2022.

Order signed by the presiding officer on : 07.07.2022.

Order uploaded on : 11.07.2022.

Order uploaded by : Mahesh S Takwale
(Stenographer Grade-III.)