



ORDER BELOW EXH.36 IN Spl.C.S.NO.6/2020

(CNR No. MHWS02000131-2020)

Vishal @ Vaibhav Raut Vs. Shrihari Naik

1] The plaintiff has filed this application under Order 1 Rule 10 (2) of the Code of Civil Procedure, 1908 (for short 'C.P.C.') for addition of the Land Acquisition Officer (for short 'L.A.O.'), Karanja as defendant No.2 in the suit.

2] Contents of this application, in nutshell, are as follows :-

The plaintiff has filed the present suit for recovery of an amount of Rs.5,79,222/-. The plaintiff has pleaded in the plaint that the Government has acquired the land admeasuring 0. 1517 HR out of his land in Block No.224 situated within the jurisdiction of village Mungla, Tq. & Dist. Washim for the purpose of *Samruddhi Mahamarg*. The plaintiff has, however, stated in the plaint that due to an objection taken by the defendant before the Acquiring Authority, he received 25% less compensation amount against the acquired land.

3] The plaintiff has further stated that the defendant has stated in para No.21 his written statement that L.A.O., Karanja is necessary party to the present suit. It is, thus, contention of the plaintiff that in order to avoid any further technical defect,

L.A.O., Karanja is required to be impleaded in the suit as defendant No.2. The plaintiff has, however, specifically stated that he has not sought any relief against proposed defendant No.2. With this, the plaintiff has prayed that this application be allowed.

4] The defendant has filed his to this application vide Exh.37. He has stated that L.A.O., Karanja being the public servant cannot be joined in the suit without impleading the State of Maharashtra. He has further stated that L.A.O., Karanja cannot be joined in the suit as the plaintiff did not issue to him a prior notice contemplated under Section 80(1) of the C.P.C. The defendant has further stated that the claim against proposed defendant No.2 i.e. L.A.O., Karanja is time barred ; and however, it is also barred by provisions of the Maharashtra Highways Act, 1955 (for short 'Highways Act') & Right to Fair Compensation & Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013 (for short 'Fair Compensation Act'). With this, the defendant has stated that this application being devoid of merits is liable to be rejected.

5] I have heard Ld. Advocate Mr. Lahoti for the plaintiff, Ld. Advocate Mr. Deshmukh for the defendant at considerable length. I have also gone through the record of the suit.

6] It is pertinent to note that in para No.21 of the written statement filed by the defendant, he has stated that L.A.O.,

Karanja is necessary party to the present suit. Here, I would like to mention that the plaintiff does not intend to seek any relief against proposed defendant No.2 i.e. L.A.O., Karanja. Therefore, if he is joined in the suit as defendant No.2, it cannot be said that the suit against him would be hit by Section 80 (1) of the C.P.C. Furthermore, I would like to mention that the plaintiff has not sought any relief/claim against L.A.O., Karanja. Therefore, contention of the defendant that the claim against L.A.O., Karanja is barred by limitation, and it is also barred by provisions of Highways Act & Fair Compensation Act cannot be taken into consideration.

7] It is, however, true that Order 27 Rule 5A of the C.P.C. provides that *‘where a suit is instituted against a public officer for damage or other relief in respect of any act alleged to have been done by him in his official capacity, the Government shall be joined as party to the suit’*. Be that as it may, I reiterate that the plaintiff has not sought any relief against proposed defendant No.2 i.e. L.A.O., Karanja. Therefore, it cannot be said that L.A.O., Karanja cannot be impleaded in the suit without impleading State of Maharashtra as a party in the suit.

8] I reiterate that the defendant himself has stated in para No.21 of his written statement that L.A.O., Karanja is necessary party to the present suit. However, the plaintiff has stated in this application that he does not intend to seek any relief against L.A.O., Karanja & however, in order to avoid any further

technical defect, he intends to implead L.A.O., Karanja in the suit. Thus, having regard to contents of para No.21 of the written statement filed by the defendant & contents of this application, I am of the considered view that presence of L.A.O., Karanja before the Court is necessary to enable the Court effectually & completely to adjudicate upon & settle all questions involved in the present suit. Therefore, I have no hesitation to hold that this application deserves to be allowed. With this, I proceed to pass the following order -

ORDER

- 1] Application Exh.36 is allowed.
- 2] The plaintiff shall add in the plaint the L.A.O., Karanja, as defendant No.2 ; and shall amend the plaint, till next date, and he shall supply copies of the amended plaint as early as possible.
- 3] Thereafter, suit summons be issued to proposed defendant No.2.
- 4] No order as to costs.
- 5] Parties to the suit shall take note of this order.

(Dictated & pronounced in the open Court)

Washim.

Date:- 14/11/2024

(S. S. Ubale)

Civil Judge (Sr. Div.), Washim.

CERTIFICATE

I affirm that the contents of this PDF file Issues are same word to word, as per original Issues.

- 1) Name of Stenographer :- S. P. Kale (Stenographer G-III)
- 2) Name of Court :- Civil Judge (S.D.), Washim.
- 3) Date :- 14/11/2024
- 4) Order signed by the :- 14/11/2024
presiding officer on
- 5) Order uploaded on :- 15/11/2024