



RCS No. 47/2023

Jagan Vs. Raju

CNR No. MHWS080006352023

ORDER BELOW EXH-23

Present application is moved by defendant U/O 01 Rule 10 R/W Section 151 of Civil Procedure Code for addition of party in the suit.

02 As per contention of defendant, Indrayani @ Indubai is legally wedded wife of plaintiff and defendant is son of plaintiff. Plaintiff has one more son namely Vikas Jagan Bajad. Prior to this suit wife of plaintiff Indrayani @ Indubai along with defendant have filed RCC No.43/2023 in respect of same suit property against plaintiff and his another son namely Vikas Bajad for partition, separate possession and mesne profit. Plaintiffs wife Indrayani @ Indubai had parental place at village Pangari (Navghare) Tq. Malegaon, Dist. Washim. After demise of her parents Indrayani @ Indubai being their sole legal representative inherited 02 agricultural lands i.e. block No.186 (Survey No.91) and block No. 227 (Survey No.122).

03 Further defendant contended that, above inherited properties both properties i.e. block No.186 and block no. 227 were sold by Indrayani @ Indubai to one Laxman Dnyanba Navghare R/o Pangri Navghare vide register sale-deed dated 19.05.1992 and out of inherited properties open plot ward No.04 was sold to Rambhau Bhagaji Navghare and Bhagwat Dnyanba Navghare vide sale-deed

dated 13.04.1993. In this way wife of plaintiff i.e. Indrayani @ Indubai collected total amount of Rs. 1,25,000/- out of all sale-deeds and said amount was handover to plaintiff.

04 Further defendant contended that, plaintiff has purchased block No.166 which include suit property from one Chandrabhan Pandurang Bajad for consideration of Rs.34,000/- vide register sale-deed dated 11.02.1993. Said amount of sale-deed was paid by plaintiff out of sale proceeds of Indrayani @ Indubai. Now suit land is standing in the name of plaintiff and he is taking unfair and illegal advantage of the said fact. Through this suit plaintiff is trying to set his ownership over the suit property but suit property is joint family property of plaintiff. Plaintiff has filed this suit on count of fake cause of action and only to counter blast previously instituted suit no.43/2023. Hence, proposed defendant No.02 i.e. Indrayani @ Indubai is interested and necessary party in this suit and be allowed to contest claim of the plaintiff. It will not cause any prejudice to plaintiff or it will not change nature of present suit. Hence prayed that application be kindly allowed.

05 On this application Ld. Advocate for plaintiff filed their say. In his say plaintiff contended that, this is plain suit for injunction and at the time of filing suit there was no obstruction from Indrayani @ Indubai. Hence, no cause of action was arose against her and therefore she is not necessary party to this suit. Because of her absence suit can be decided effectively. Hence, prayed that application be kindly rejected.

06 Heard both the sides at length. Perused the record. Record shows that, plaintiff has filed present suit against defendant namely Raju Jagan Bajad who is son of plaintiff. On perusal of suit it appears that, plaintiff has contended that, on 02.06.2023 defendant Raju has started to create obstruction and interference in the peaceful possession of plaintiff over the suit property. Due to such cause of action plaintiff has filed this suit for permanent injunction to restrain defendant or anybody on behalf of him.

07 On perusal of record it appears that name of plaintiff was mutated to the revenue record of suit property through M.E. No.1162 and Exh.05 (Temporary Injunction Application) is also allowed in favour of plaintiff. In this suit plaintiff has produced his evidence affidavit below Exh.22 and now suit is pending for cross examination of plaintiff. Through this application defendant raised objection that, suit property is purchased in the name of plaintiff but it is purchased out of money received through sale-deeds of wife Indrayani @ Indubai and therefore she is necessary party to this suit as plaintiff is trying to set his ownership over suit property and proposed defendant i.e. wife of plaintiff wants to contest the claim of plaintiff.

08 But on perusal of application itself it reveals that wife of plaintiff i.e. Indrayani @ Indubai along with present defendant have filed RCS 43/2023 in respect of same suit property for the relief of partition, separate possession and mesne profit. In such prior suit ownership of defendant and wife of plaintiff over suit property will be going to decided separately. However, plaintiff has filed this suit

against defendant only for permanent injunction i.e. to restrain him from creating interference to the possession of plaintiff over suit property. Here in this suit plaintiff has mentioned specific cause of action and certainly it is choice of plaintiff to decide the defendant in suit of permanent injunction. In this suit plaintiff has nowhere contended that his wife Indrayani @ Indubai also created any obstruction to his possession over suit property along with present defendant.

09 During argument plaintiff has produced one case law namely **Sudhamayee Pattnaik and ors Vs. Bibhu Prasad Sahoo and ors** and submitted that, unless court suo-moto directs to join any other person for effective decree or for proper adjudication nobody can be permitted to be impleaded as defendants against wish of plaintiffs.

10 Here in this suit, plaintiff has only claimed permanent injunction against his son i.e. Raju Bajad by narrating incident of obstruction dated 02.06.2023 to his peaceful possession over suit property. The key aspects of necessary party is :-

- 1- Essential for complete relief, - The Court cannot issue a fare or enforceable judgment without them.
- 2- Interest in the case – The party has a legal or finanacial stake in the outcome.
- 3- Prevention of multiple law suits – Their absence could result in separate conflicting rulings.

11 Here after perusal of key points for adding necessary party it appears that, proposed defendant No.02 not seems to fit in any criteria for necessary party. Considering nature of present suit the proposed defendant No.02 mentioned in this application is not appears as necessary party for effective decree or for proper adjudication of this suit. Hence, present application deserves to be rejected. Therefore, I pass following order.

ORDER

1. Application below Exh.23 is rejected.
2. No order as to cost.

(P. V. Sapkal)

Date: 21.03.2025

Civil Judge (J.D.), Risod

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.

Name of the Stenographer : H. A. Uchade.

Name of court : C.J.J.D.& JMFC;Risod

Date : 21.03.2025

Judgment/Order signed by the
Presiding Officer : 21.03.2025

Judgment/Order uploaded on : 24.03.2025