

Order below Exhibit No.11 in RCS No.31/2015

The applicants have filed present application u/o 1 Rule 10 of Code of Civil Procedure praying to get them joined as party defendants. The applicants stated to have filed, a suit for partition against the defendants of present suit with Hon'ble C.J.[S.D.], Washim and also the application u/o 33 Rule 1 of C.P.C bearing No. M.J.C.No.07/2014. The suit with C.J.[S.D.], Washim said to be in respect of the suit property involved in the present suit. The applicants claimed to be co-owners of the suit property and claimed to be in possession of the same. They alleged the plaintiff to have filed the present suit in collusion with the defendant nos.1 and 2. As they said to have interest in the suit property of the present suit, hence, prayed to join them as party defendants.

2] The plaintiff strongly objecting application submitted that no cause of action has arisen against the applicants. They are not essential parties. Hence, prayed to reject the application.

3] I perused the record. The plaintiff has filed the judgment copy of RCS No.39/2007. The suit was filed by present defendant no.1 against the plaintiff for the same property as involved in the present suit. The plaintiff appears to have purchased the suit property from defendant no.1 and defendant no.1 had filed suit No.39/2007 praying to declare the sale-deed as null and void. The suit was dismissed. However, in the judgment of R.C.S.No.39/2007 the present plaintiff was held to be in possession of the suit property i.e. the suit property of present suit. Hence, in view of copy of judgment, it cannot be said that the present suit came to have been filed in collusion with the defendants so as to drive out the applicants from the suit property under the guise of prohibitory order. The plaintiff has specifically alleged the defendants to have obstructed him unlawfully. Similarly, in view of R.C.S.No.39/2007, the plaintiff has reason to file the present suit against the defendants. In view of documents on record and also the observations recorded in RCS No. 39/2007, the plaintiff appears to be in exclusive possession of the suit property and he appears to be the owner of the same. Hence, in view of this I found no reason to implead the applicants as party defendants, as they prima facie failed to show any interest of their own in the suit property. Accordingly, I pass the following order.

ORDER

Application stands rejected.

Sd/-  
(A.R.Sayyed)  
Joint Civil Judge,  
Junior Division, Malegaon,  
Dist. Washim.

Date: 21/09/2015.

CERTIFICATE

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

Name of the Stenographer	:	B.A.Ukey, Stenographer (L.G.)
Name of Court	:	Joint Civil Judge, [Jr.Divn.] & Judicial Magistrate, First Class, Malegaon, Dist. Washim.
Date:	:	21/09/2015.
Order signed by the Presiding Officer on	:	21/09/2015.
Order uploaded on	:	21/09/2015.