


MHYA050040622021 	R.C.S.No. 148/2021 Sarala Vs Rajesh
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ORDER BELOW EXH.52
(Dated 31-08-2024)

- 1) The plaintiff has filed this application under Order 1 Rule 10 of the Code of Civil Procedure.
- 2) Read the application and say.
- 3) Heard learned advocates for both side.
- 4) It is submitted that the plaintiff has filed this suit against the defendant No.1 to 4 for the relief of permanent injunction. During the pendency of this suit, on 17-09-2023 the defendants have sold 90-R land to Bhikesh Rameshchandra Malani and Prakash Motiramji Bangad both r/o. Shivajinagar, Ner, Tal. Ner, Dist. Yavatmal for the consideration of Rs.60 lakh. Said land is the adjacent land of the suit property by north side. The present suit is filed for the relief of permanent injunction against the defendant for restraining them permanently from obstruction to the possession and rights of the plaintiff over the suit property. The injunction also sought that the defendants be restrained permanently from destroying the northern side boundry of the suit property. According to plaintiff, the name of said purchaser of the adjoining land of the suit property needs to be joined as the defendant No.5 and defendant No.6 in the present suit. After joining them party to the suit the amendment has been sought after Para No.5

of the plaintiff in that regard by adding Para No.5-A. According to the plaintiff, they are necessary parties in the present suit. Hence, the plaintiff has prayed for allow the application.

5) The defendants No.1 to 4 have no objection for allowing this application.

6) As per O.1 R.10 of the C.P.C., a person may be added as a party to a suit in the following two cases: (1) when he ought to have been joined as plaintiff or defendant, and is not joined so, or (2) when, without his presence, the questions in the suit cannot completely decided. It enables the court to add any person as a party at any stage of the proceedings if the persons whose presence before the court is necessary in order to enable the court to effectively and completely adjudicate upon and settle all the questions involved in the suit.

7) In the present case, I am of the view that the necessity to join the party to the suit as defendant No.5 and defendant No.6 would definitely depend upon the relief that have been claimed. In the present suit the plaintiff has claimed relief of permanent injunction against the defendants for not to disturb northern side boundary of the suit property. According to plaintiff, the defendants have sold 90R land to the proposed defendants and said land is adjacent land of the suit property by northern side. Therefore, I am of the opinion that said relief cannot be granted without the intervention and participation of the said purchasers of the adjoining land of the suit property as the dispute in the present suit is relating to the northern side boundary of the suit property. The plaintiff is a dominus

litis. It is therefore, for the plaintiff to choose his opponent from whom he claims relief. The nature of the suit will not be altered if application is allowed. On these grounds, I hold that the application is deserves to be allowed. Hence, the following order is passed.

ORDER

- 1) Application Exh.52 is allowed.
- 2) The plaintiff is directed to carry out necessary amendment in the plaint and amended copies of the summons and the plaint must be served on the new defendants.

Pusad
Dated:-31-08-2024

(D.G.Mhaske)
2nd Jt.Civil Judge (Jr.Div.) Pusad