

Mr. Sandeep S. Koregave for Petitioners.
Mr. Shivraj Patil i/b. Mr. S. S. Tambekar for Respondents No.1 to 14.

P.C. :

2. By this Petition under Article 227 of the Constitution of India, petitioners have challenged the judgment and order dated 22.04.2015 passed by the learned 5th Joint Civil Judge Junior Division, Kolhapur below exhibit-28 in Regular Civil Suit No.228 of 2014. By that order, the learned trial Judge allowed the application made by respondents No.1 to 14 under Order I, Rule 10 of the Code of Civil Procedure, 1908 (for short 'C.P.C.') for addition of parties.

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plaintiffs did not implead all the persons having rights as per 7/12 extract in Revision Survey No.206/1. It appears that on the basis of pleadings of the parties, the learned trial Judge framed the issue as to whether the Suit is bad for non-joinder of necessary parties. Plaintiffs, therefore, took out application exhibit-28 under Order I, Rule 10 read with Section 151 of C.P.C. for impleading persons, who are having interest in Revision Survey No.206/1. By the impugned order, the learned trial Judge has allowed that application.

4. After arguing the Petition for quite some time, Mr. Koregave, upon taking telephonic instructions from Mr. S. S. Kestikar - instructing Advocate, states that defendants No.1 to 3 will apply for amending the written statement thereby deleting the contention raised by them to the effect that Suit is bad for non-joinder of necessary parties as plaintiffs did not implead all the persons having rights as per 7/12 extract in Revision Survey No.206/1. He further states that defendants No.1 to 3 will also apply for recasting the issues so as to delete the issue “whether the Suit is bad for non-joinder of necessary parties”. Subject to the outcome of application for amending the written statement and for recasting the issues, defendants No.1 to 3 will take out application for review of the impugned order. Statements made by Mr. Koregave, on instructions, are recorded.

5. In view thereof, Petition is allowed to be withdrawn with liberty as prayed for and is disposed of as such. It is made clear that I have not examined merits of the proposed proceedings to be filed by defendants No.1 to 3. Order accordingly.

(R. G. KETKAR, J.)