

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.2648 OF 2022

(MAHESH AVINASH BHALERAO...VS.. SHYAMLAL RAMLAL CHANGOIWALA & ANR.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri J.B.Gandhi, Advocate for Petitioner.

CORAM : ANIL S. KILOR, J.
DATED : JANUARY 02, 2023.

1. Heard.
2. This is a writ petition filed questioning the legality and correctness of order dated 07/03/2020, passed below Exh.82, rejecting the application filed by the petitioner under Order I Rule 10 of the Code of Civil Procedure (CPC).
3. Shri Gandhi, learned counsel for the petitioner submits that in cross-examination the defendant put a question to the plaintiff as regards deposit of amount in the account of proposed defendant Nos. 2 and 4, which compelled the petitioner to move an application under Order I Rule 10 of CPC to add Mr. Devesh Shamlal Changoiwala and Sau. Meera Shamlal Changoiwala as defendant Nos. 3 and 4.

4. It is submitted that in the written statement it was not the case of the defendant Nos. 1 and 2 that on the top of the Promissory Note, names of Mr. Devesh Shamlal Changoiwala and Sau. Meera Shamlal Changoiwala were recorded and the amount was deposited in their accounts. Accordingly, he submits that the order impugned is erroneous.

5. In the light of the submissions made by the learned counsel for the petitioner, I have perused the application (Exh.82) and order below Exh.82.

6. The learned trial Court rejected the application by recording following reasons:

“02) Perused the application filed by the plaintiff and say filed by the defendant. It appears that evidence of plaintiff is already adduced and evidence closed pursis is filed on record vide Exh.63 and the evidence of defendant is going on. Therefore, at this stage, this application is not maintainable and tenable. Hence, the application Exh.82 is hereby rejected.”

7. On perusal of the application Exh.82 it can be seen that no sufficient pleadings are made in the application that how the presence of Mr. Devesh Shamlal Changoiwala and Sau. Meera Shamlal Changoiwala is necessary as defendants and without adding them as party to the suit how the Court cannot decide the issues involved in the suit in proper and complete manner. In

absence of any pleadings in this regard, which are necessary to seek addition of parties under Order I Rule 10 of the CPC and considering the reasons recorded by the trial Court, I do not find any merit in the present writ petition.

The Writ Petition is **dismissed**. No order as to costs.

JUDGE

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