

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CIVIL APPLICATION (F) NO.2779 OF 2022

IN

FIRST APPEAL NO.407 OF 2020

[Sudhir S/o Amarsing Sanklecha and Anr. ..V/s.. Amarsing S/o
Rajmalji Sanklecha and Ors.]

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

Court's or Judge's order

Mr N. R. Saboo, Advocate for Applicants/Appellants.

Mr K. J. Hakani, Adv. with Mr A. P. Chaware, Advocate for Non-Applicant Nos.5, 6, 7, 11 and 12.

CORAM : VINAY JOSHI AND VALMIKI SA MENEZES, JJ.

DATE : 4th JULY, 2023.

. Heard.

2. By this application, the applicants/appellants are seeking to implead subsequent purchaser as a party to the proceedings. The appellants have initially filed a suit for partition and separate possession, which came to be dismissed. Being aggrieved, the appellants preferred this first appeal.

3. It is the appellants' contention that during pendency of appeal, prior to the interim order dated 22.12.2020, some part of the property was alienated to proposed respondent Nos.5 to 13 and further alienation was post interim order in favour of proposed respondent Nos.14 to 40. In view of that the appellants seek impleadment of proposed respondents in the suit, in terms of Order 1 Rule 10 of the Code of Civil Procedure.

4. The other side has not disputed about the alienation made during pendency of appeal. Though, Section 52 of the Transfer

of Property Act, afford protection, however, a person can be joint in the lis at least on account of proper party if not necessary one. Since under registered documents, proposed respondents have acquired right. We find it appropriate to hear them to put end to the litigation.

5. In view of the above, the application is **allowed**. The appellants are directed to carry out necessary amendment within one week and take steps for service on newly added respondents.

6. The civil application stands disposed of in above terms.

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7. Issue notice to newly added respondents, returnable on 25.07.2023.

(VALMIKI SA MENEZES, J.)

(VINAY JOSHI, J.)