

UTTARAKHAND JUDICIAL AND LEGAL ACADEMY BHOWALI, NAINITAL

TRAINING PROGRAMME ON CIVIL PROCEDURE (IMPLEADMENT, AMENDMENT & SUBSTITUTION OF THE PARTIES) FOR CIVIL JUDGES (JR. DIV.)

[07.10.2026]

(CONTENTS OF STUDY MATERIAL) (INDEX OF CASE LAWS)

S. No.	Title/ Citation/Abstract
PART-I ORDER I RULES 10 CPC IMPLEADMENT OF PARTIES	
Necessary Party vs. Proper Party – The distinction and why it matters (non-joinder of a necessary party can be fatal ; non-joinder of a proper party usually isn't)	
1	Ramesh Hirachand Kundanmal v. Municipal Corpn. of Greater Bombay (1992) 2 SCC 524 The Hon'ble Supreme Court laid down foundational principles for impleadment: Direct Legal Interest vs. Commercial Interest: A person can only be joined as a party if they have a direct legal interest in the subject matter of the litigation. A legal interest means that the final judgment will directly affect or curtail their legal rights. Merely having a commercial, financial, or peripheral interest is not enough.

	Possession of Evidence is Insufficient: The court explicitly clarified that a person cannot seek impleadment just because they possess relevant information or evidence regarding the dispute. That status makes them a necessary witness, not a necessary party. The Core Test for a Necessary Party: A person is a necessary party only if the dispute cannot be completely and effectively settled without their presence. They must be someone who will be legally bound by the result of the action. Dominus Litis: The plaintiff is generally the master of their suit (<i>dominus litis</i>). They cannot be compelled to fight against a party they do not want to sue, unless a clear legal requirement exists.
2	NAK Engg. Co. (P) Ltd. v. Tarun Keshrichand Shah, (2026) 3 SCC 631 Para 40. There is one another reason for not interfering with the impugned judgment and order [Tarun Keshrichand Shah v. Kishore Engg. Co., 2022 SCC OnLine Bom 348] of the High Court. The summons issued in the suit meant to be served upon Respondent 3, were served in the year 2008. The seal and signatures on the acknowledgment on the said summons is of the appellant which clearly indicates that the appellant had acquired knowledge of the suit in the year 2008. However, the appellant kept silent and moved the motion for impleadment only after the evidence was closed in the year 2014 and the court had directed to proceed ex parte in the matter. The impleadment application was filed almost after nine years of the knowledge of the pendency of the suit. Thus, the impleadment has been rightly refused to the appellant by the High Court. <i>The plaintiff is the master of their own suit (dominus litis). A plaintiff cannot be forced to fight against a party they do not wish to sue, unless that party is proven to be legally indispensable to resolving the case.</i>
3	Ram Kumar v. State of U.P., (2023) 16 SCC 691

	15. This Court in Mumbai International Airport [Mumbai International Airport (P) Ltd. v. Regency Convention Centre & Hotels (P) Ltd., (2010) 7 SCC 417 : (2010) 3 SCC (Civ) 87] had an occasion to consider as to who is a necessary party to the proceedings. It will be relevant to refer to para 15 of the said judgment, which reads thus : (SCC p. 423) “15. A “necessary party” is a person who ought to have been joined as a party and in whose absence no effective decree could be passed at all by the court. If a “necessary party” is not impleaded, the suit itself is liable to be dismissed. A “proper party” is a party who, though not a necessary party, is a person whose presence would enable the court to completely, effectively and adequately adjudicate upon all matters in dispute in the suit, though he need not be a person in favour of or against whom the decree is to be made. If a person is not found to be a proper or necessary party, the court has no jurisdiction to implead him against the wishes of the plaintiff. The fact that a person is likely to secure a right/interest in a suit property, after the suit is decided against the plaintiff, will not make such person a necessary party or a proper party to the suit for specific performance.” 16. It could thus be seen that a necessary party is a person in whose absence no effective decree could be passed by the Court. It has been held that if a “necessary party” is not impleaded, the suit itself is liable to be dismissed.
4	Sudhamayee Pattnaik v. Bibhu Prasad Sahoo, (2022) 17 SCC 286 11. However, at the same time, considering the fact that defendants have also filed counterclaim for declaration of their right, title and interest over the suit property and permanent injunction and in case the counterclaim is allowed, as the plaintiffs are opposing to implead the subsequent purchasers as party defendants, thereafter it will not be open for the plaintiffs to contend that no decree in the

	counterclaim be passed in absence of the subsequent purchasers. Therefore, non-impleading the subsequent purchasers as defendants on the objection raised by the plaintiffs shall be at the risk of the plaintiffs.
5	Rahul S. Shah v. Jinendra Kumar Gandhi, (2021) 6 SCC 418 38. Based on the report of the Commissioner or an application made in that regard, the court may proceed to add necessary or proper parties under Order 1 Rule 10. The court may permit objectors or claimants upon joining as a party in exercise of power under Order 1 Rule 10, make a joinder order under Order 2 Rule 3, permitting such parties to file a written statement along with documents and lists of witnesses and proceed with the suit.
6	Poonam v. State of U.P., (2016) 2 SCC 779 45. In this context, we may refer to certain other authorities where there has been an expansion of the concept of necessary party. The Constitution Bench in U.P. Awas Evam Vikas Parishad v. Gyan Devi [U.P. Awas Evam Vikas Parishad v. Gyan Devi, (1995) 2 SCC 326] has laid down that in a land acquisition proceeding, the local authority is a necessary party in the proceedings before the Reference Court and is entitled to be impleaded as a party in those proceedings wherein it can defend the determination of the amount of compensation by the Collector and oppose enhancement of the said amount and also adduce evidence in that regard. That apart, it has also been stated that in the event of enhancement of the amount of compensation by the Reference Court, if the Government does not file an appeal, the local authority can file an appeal against the award in the High Court after obtaining leave of the Court. That apart, the Court also opined that in an appeal by the person having an interest in the land seeking enhancement of the amount of compensation awarded by the Reference Court, the local authorities should be impleaded as a party and is entitled to be served notice of

	the said appeal and that could apply to appeal in the High Court as well as in the Supreme Court.
7	Mumbai International Airport (P) Ltd. v. Regency Convention Centre & Hotels (P) Ltd., (2010) 7 SCC 417 15. A “necessary party” is a person who ought to have been joined as a party and in whose absence no effective decree could be passed at all by the court. If a “necessary party” is not impleaded, the suit itself is liable to be dismissed. A “proper party” is a party who, though not a necessary party, is a person whose presence would enable the court to completely, effectively and adequately adjudicate upon all matters in dispute in the suit, though he need not be a person in favour of or against whom the decree is to be made. If a person is not found to be a proper or necessary party, the court has no jurisdiction to implead him, against the wishes of the plaintiff. The fact that a person is likely to secure a right/interest in a suit property, after the suit is decided against the plaintiff, will not make such person a necessary party or a proper party to the suit for specific performance.
8	Govt. of A.P. v. G. Jaya Prasad Rao, (2007) 11 SCC 528 29. It is true that when the validity of the rules is challenged it is not necessary to implead all persons who are likely to be affected as party. It is not possible to identify who are likely to be affected and secondly, the question of validity of the rule is a matter which is decided on merit and ultimately, if the rule is held to be valid or invalid, the consequence automatically flows. Therefore, the original applications filed before the Andhra Pradesh Administrative Tribunal or for that matter before the High Court does not suffer from the vice of non-joinder of necessary party.
9	Bhogadi Kannababu v. Vuggina Pydamma, (2006) 5 SCC 532 10. So far as the first submission of the learned counsel for the appellants is concerned, it is on record that the application for

	impleadment was allowed by the High Court which was affirmed by this Court by rejecting a special leave petition, which relates to impleadment of Respondents 2 and 3 in the revision case. In an application for impleadment under Order 1 Rule 10 of the Code of Civil Procedure, the only question that needs to be decided is whether the presence of the applicant before the Court may be necessary in order to enable the court effectually and completely to adjudicate upon and settle all the questions involved in the proceedings. Therefore, according to the learned counsel for the appellants, even if Respondents 2 and 3 were added as parties, but by such addition it cannot be said that they were also entitled to succeed to the properties in question of late Suryanarayana and therefore entitled to evict the appellants.
10	Chief Conservator of Forests v. Collector, (2003) 3 SCC 472 13. The question that needs to be addressed is, whether the Chief Conservator of Forests as the appellant-petitioner in the writ petition/appeal is a mere misdescription for the State of Andhra Pradesh or whether it is a case of non-joinder of the State of Andhra Pradesh — a necessary party. In a lis dealing with the property of a State, there can be no dispute that the State is the necessary party and should be impleaded as provided in Article 300 of the Constitution and Section 79 CPC viz. in the name of the State/Union of India, as the case may be, lest the suit will be bad for non-joinder of the necessary party. Every post in the hierarchy of the posts in the government set-up, from the lowest to the highest, is not recognised as a juristic person nor can the State be treated as represented when a suit/proceeding is in the name of such offices/posts or the officers holding such posts, therefore, in the absence of the State in the array of parties, the cause will be defeated for non-joinder of a necessary party to the lis, in any court or tribunal. <i>We make it clear that this principle does not apply to a case where an official of the Government acts as a statutory authority and sues or pursues further proceeding in its name because in that event, it will not be a suit or proceeding for or on</i>

	<i>behalf of a State/Union of India but by the statutory authority as such.</i>
11	State of U.P. v. Ram Swarup Saroj, (2000) 3 SCC 699 9. We find that none of the pleas raised before this Court was raised by the appellant before the High Court. A plea as to non-joinder of a party cannot be permitted to be raised for the first time before this Court if the same was not taken before the High Court and has not occasioned a failure of justice. It is pertinent to note that the High Court of Allahabad though aware of the impugned judgment delivered by the Division Bench has not chosen to file an appeal thereagainst. Before us also the appellant State of U.P. has not placed any material on record to show how an inference as to failure of justice can be drawn because of non-joinder of the High Court as party in the writ petition. The first plea of the appellant therefore fails.
Leading Tests : Razia Begum vs. Sahebzadi Anwar begum, Kasturi vs. Lyyamperumal (The twin test for impleadment in suits for specific performance/title)	
12	Razia Begum v. Sahebzadi Anwar Begum, 1958 SCC OnLine SC 77 23. It is true that in a suit U/s 42 of the Specific Relief Act it is discretionary with the court to make or not to make the declaration asked for. The exercise of that discretion, however, has to be judicial . In the present case there does not appear to be any legal impediment in the way of the court refusing to make the declaration asked for since Respondent 3 had acknowledged the marriage and had admitted the claim for Rs. 2000 per month as Kharch-e-Pandan. The appellant has not asked for any sum of money to be decreed in her favour. There is no cause of action now left to the appellant which can be the basis for the present suit. The appellant could rely upon the acknowledgement which raises a presumption under the Mohammedan law that she is married to

Respondent 3. There appears to be no good ground for adding Respondents 1 and 2 as parties to the present suit. If hereafter on the happening of a certain event and the existence of certain circumstance any question arose whether the appellant was married to Respondent 3, then those who were interested in disproving the marriage would be in a position to do so and rebut the presumption arising from the acknowledgement.

24. Under Or. 1 R. 10 of the C.P.C., the court has the power to pass orders regarding the adding of parties or striking off the name of a party. Whether the exercise of this power is a matter of jurisdiction or of discretion appears to have been the subject of difference of opinion in the courts of law here and in England. Whichever view may be correct it is patent that resort to the exercise of such power could only be had if the court is satisfied that it is necessary to make an order under Order 1 Rule 10, in order to effectually and completely adjudicate upon and settle all questions involved in the suit. The court ought not to compel a plaintiff to add a party to the suit where on the face of the plaint the plaintiff has no cause of action against him. If a party is added by the court without whose presence all questions involved in the suit could be effectually and completely adjudicated upon, then the exercise of the power is improper and even if it be a matter of discretion such an order should not be allowed to stand when that order is questioned in a superior court. The plaintiff is entitled to choose as defendants against whom he has a cause of action and he should not be burdened with the task of meeting a party against whom he has no cause of action. It was, however, suggested that on the face of the plaint not only Respondent 3 was interested in denying his marriage with the appellant but a legitimate inference could be drawn from the contents of the pleadings that Respondents 1 and 2 were also interested in denying the marriage. No allegation made in the pleadings even remotely suggests that Respondents 1 and 2 were interested to deny the alleged marriage of the appellant to Respondent 3 or were denying the same. Under Section 42 of the

	Specific Relief Act a suit may be instituted against any person denying or interested to deny the plaintiff's legal character or right to any property. The plaint does not suggest that Respondents 1 and 2 were denying the appellant's status as wife of Respondent 3. Such an issue was raised by the appellant against Respondent 3 only. In law, it cannot be said that Respondents 1 and 2 are interested to deny the status of the appellant as the wife of Respondent 3 because the status of Respondent 1 as wife and Respondent 2 as the son of Respondent 3 is not in the least 26 affected even if the appellant is declared to be the wife of Respondent 3, as under the Mohammedan law Respondent 3 is entitled to have both the appellant and Respondent 1 as his wives and children through them. The true legal position in the present suit between the appellant and Respondent 3 is that Respondents 1 and 2 have no locus standi in such a suit. There is no danger of multiplicity of suits during the life time of Respondent 3. The suggestion that the present suit would lead to multiplicity of suits is founded on an assumption which no court of law can assume. It cannot be assumed that Respondent 3 would die first. It may well be that he may survive both Respondents 1 and 2, in which case, no question of any suit coming into existence at their instance would arise. If the order allowing Respondents 1 and 2 to be added as parties in a suit of the present nature is allowed to stand it will open the way to a wider exercise of powers under Order 1, Rule 10 and in a manner which was not contemplated by the Code of Civil Procedure, or Section 42 of the Specific Relief Act or permissible under the Mohammedan law.
13	Kasturi v. Iyyamperumal, (2005) 6 SCC 733 16. That apart, from a plain reading of the expression used in sub-rule (2) Order 1 Rule 10 CPC “all the questions involved in the suit” it is abundantly clear that the legislature clearly meant that the controversies raised as between the parties to the litigation must be gone into only, that is to say, controversies with regard to the right

which is set up and the relief claimed on one side and denied on the other and not the controversies which may arise between the plaintiff-appellant and the defendants inter se or questions between the parties to the suit and a third party. In our view, therefore, the court cannot allow adjudication of collateral matters so as to convert a suit for specific performance of contract for sale into a complicated suit for title between the plaintiff-appellant on one hand and Respondents 2 and 3 and Respondents 1 and 4 to 11 on the other. This addition, if allowed, would lead to a complicated litigation by which the trial and decision of serious questions which are totally outside the scope of the suit would have to be gone into. As the decree of a suit for specific performance of the contract for sale, if passed, cannot, at all, affect the right, title and interest of Respondents 1 and 4 to 11 in respect of the contracted property and in view of the detailed discussion made hereinafter, Respondents 1 and 4 to 11 would not, at all, be necessary to be added in the instant suit for specific performance of the contract for sale.

18. That apart, there is another principle which cannot also be forgotten. The appellant, who has filed the instant suit for specific performance of the contract for sale is dominus litis and cannot be forced to add parties against whom he does not want to fight unless it is a compulsion of the rule of law, as already discussed above. For the reasons aforesaid, we are, therefore, of the view that Respondents 1 and 4 to 11 are neither necessary parties nor proper parties and therefore they are not entitled to be added as party-defendants in the pending suit for specific performance of the contract for sale.

21. It may be reiterated here that if the appellant who has filed the instant suit for specific performance of contract for sale even after receiving the notice of claim of title and possession by Respondents 1 and 4 to 11 does not want to join Respondents 1 and 4 to 11 in the pending suit, it is always done at the risk of the appellant because he cannot be forced to join Respondents 1 and 4 to 11 as

	party-defendants in such suit. In the case of <i>Ramesh Hirachand Kundanmal v. Municipal Corpn. of Greater Bombay [(1992) 2 SCC 524]</i> on the question of jurisdiction this Court has clearly laid down that it is always open to the Court to interfere with an order allowing an application for addition of parties when it is found that the courts below had gone wrong in concluding that the persons sought to be added in the suit were necessary or proper parties to be added as defendants in the suit instituted by the plaintiff-appellant. In that case also this Court interfered with the orders of the courts below and rejected the application for addition of parties. Such being the position, it can no longer be said that this Court cannot set aside the impugned orders of the courts below on the ground that jurisdiction to invoke power under Order 1 Rule 10 CPC has already been exercised by the two courts below in favour of Respondents 1 and 4 to 11.
Court Suo Motu Power to Add/Strike Out Parties {Rule 10 (2)}	
14	M.V. Polaris Galaxy v. Banque Cantonale De Geneve, (2024) 5 SCC 750 57. There being no inconsistency between Order 1 Rule 10(2) and any provision of the Admiralty Act, Order 1 Rule 10(2)CPC would be applicable to suits and/or proceedings governed by the Admiralty Act. Order 1 Rule 10(2) enables the Court to add any person as party at any stage of the proceedings, on its own, irrespective of whether there is any application before it, if the Court deems it necessary to do so, to enable the Court to effectively and completely adjudicate and settle all questions involved in the suit. One of the objects of Order 1 Rule 10(2) is to avoid multiplicity of proceedings.
15	Kanaklata Das v. Naba Kumar Das, (2018) 2 SCC 352 16. Therefore, the lis in the suit is between the appellants on the one hand and Respondents 2 to 5 on the other hand and the

	decision in the suit would depend upon the question as to whether there exists any relationship of landlord and tenant between the appellants and Respondents 2 to 5 in relation to the suit premises and, if so, whether the grounds pleaded in the plaint for claiming eviction of Respondents 2 to 5 are established or not. For deciding these two main questions, the presence of Respondent 1 is not necessary. 17. For these reasons, we are of the considered opinion that Respondent 1 is neither a necessary and nor a proper party in the suit. 18. We, however, make it clear that any finding whether directly or indirectly, if recorded by the trial court touching the question of title over the suit property, would not be binding on Respondent 1 regardless of the outcome of the suit and Respondent 1 would be free to file an independent civil suit against the appellants for a declaration of his right, title and interest in the suit premises and in any other properties, if so, and claim partition and separate possession of his share by metes and bounds in all such properties.
16	Richard Lee v. Girish Soni, (2017) 3 SCC 194 8. In view of the power under Order 1 Rule 10 CPC suo motu invoked by us, it is not necessary for the parties to file separate application, since we have ourselves impleaded the firm and the partners in the proceedings. We direct all the parties to appear before the Rent Controller, Delhi on 1-3-2017. Within two weeks from today, the respondents will file an amended memo of parties before the Rent Controller. The additionally impleaded respondents, if they chose to file written statement, will file it either jointly or individually, within a period of thirty days from today.
17	Pankajbhai Rameshbhai Zalavadiya v. Jethabhai Kalabhai Zalavadiya, (2017) 9 SCC 700 17. The expression “to settle all questions involved” used in Order

	1 Rule 10(2) of the Code is susceptible to a liberal and wide interpretation, so as to adjudicate all the questions pertaining to the subject-matter thereof. Parliament in its wisdom while framing this rule must be held to have thought that all material questions common to the parties to the suit and to the third parties should be tried once for all. The Court is clothed with the power to secure the aforesaid result with judicious discretion to add parties, including third parties. There cannot be any dispute that the party impleaded must have a direct interest in the subject-matter of litigation. In a suit seeking cancellation of sale deed, as mentioned supra, a person who has purchased the property and whose rights are likely to be affected pursuant to the judgment in the suit is a necessary party, and he has to be added. If such purchaser has expired, his legal representatives are necessary parties. 18. In the matter on hand, since the purchaser of the suit property i.e. Defendant 7 has expired prior to the filing of the suit, his legal representatives ought to have been arrayed as parties in the suit while presenting the plaint. As such impleadment was not made at the time of filing of the plaint in view of the fact that the plaintiff did not know about the death of the purchaser, he cannot be non-suited merely because of his ignorance of the said fact. To do justice between the parties and as the legal representatives of the purchaser of the suit property are necessary parties, they have to be impleaded under Order 1 Rule 10 of the Code, inasmuch as the application under Order 22 Rule 4 of the Code was not maintainable.
18	Vidur Impex & Traders (P) Ltd. v. Tosh Apartments (P) Ltd., (2012) 8 SCC 384 41. Though there is apparent conflict in the observations made in some of the aforementioned judgments, the broad principles which should govern disposal of an application for impleadment are: 41.1. The court can, at any stage of the proceedings, either on an application made by the parties or otherwise, direct impleadment of any person as party, who ought to have been joined as plaintiff or

	defendant or whose presence before the court is necessary for effective and complete adjudication of the issues involved in the suit. 41.2. A necessary party is the person who ought to be joined as party to the suit and in whose absence an effective decree cannot be passed by the court. 41.3. A proper party is a person whose presence would enable the court to completely, effectively and properly adjudicate upon all matters and issues, though he may not be a person in favour of or against whom a decree is to be made. 41.4. If a person is not found to be a proper or necessary party, the court does not have the jurisdiction to order his impleadment against the wishes of the plaintiff. 41.5. In a suit for specific performance, the court can order impleadment of a purchaser whose conduct is above board, and who files application for being joined as party within reasonable time of his acquiring knowledge about the pending litigation. 41.6. However, if the applicant is guilty of contumacious conduct or is beneficiary of a clandestine transaction or a transaction made by the owner of the suit property in violation of the restraint order passed by the court or the application is unduly delayed then the court will be fully justified in declining the prayer for impleadment.
19	Mumbai International Airport (P) Ltd. v. Regency Convention Centre & Hotels (P) Ltd., (2010) 7 SCC 417 22. Let us consider the scope and ambit of Order 1 Rule 10(2) CPC regarding striking out or adding parties. The said sub-rule is not about the right of a non-party to be impleaded as a party, but about the judicial discretion of the court to strike out or add parties at any stage of a proceeding. The discretion under the sub-rule can be exercised either suo motu or on the application of the plaintiff or the defendant, or on an application of a person who is not a party to the suit. The court can strike out any party who is improperly joined. The court can add anyone as a plaintiff or as a defendant if

it finds that he is a necessary party or proper party. Such deletion or addition can be without any conditions or subject to such terms as the court deems fit to impose. In exercising its judicial discretion under Order 1 Rule 10(2) of the Code, the court will of course act according to reason and fair play and not according to whims and caprice.

25. In other words, the court has the discretion to either to allow or reject an application of a person claiming to be a proper party, depending upon the facts and circumstances and no person has a right to insist that he should be impleaded as a party, merely because he is a proper party.

Practical Issue :
Impleadment Applications Filed at a Late Stage –
How to Assess Bona Fides vs. Delay Tactics

Thirunagalingam v. Lingeswaran, 2025 SCC OnLine SC 1093

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31. It is a well-settled law that while considering the plea for condonation of delay, the first and foremost duty of the court is to first ascertain the bona fides of the explanation offered by the party seeking condonation rather than starting with the merits of the main matter. Only when sufficient cause or reasons given for the delay by the litigant and the opposition of the other side is equally balanced or stand on equal footing, the court may consider the merits of the main matter for the purpose of condoning the delay.

32. Further, this Court has repeatedly emphasised in several cases that delay should not be condoned merely as an act of generosity. The pursuit of substantial justice must not come at the cost of causing prejudice to the opposing party. In the present case, the respondents/defendants have failed to demonstrate reasonable grounds of delay in pursuing the matter, and this crucial requirement for condoning the delay remains unmet.

	33. Therefore, in the case at hand, once it has been established that the reasons provided for condoning the delay in the application filed are not sufficient, we are not inclined to go into the merits of the contentions raised by the learned counsel of Respondents regarding Section 14 of the Limitation Act, 1963.
21	J.N. Real Estate v. Shailendra Pradhan, 2025 SCC OnLine SC 1015 26. However, this Court, in its subsequent decision in Sumtibai (supra), was faced with a factual scenario wherein the sons of the original defendant were also prima facie found to be co-owners of the contracted property. The sons were already impleaded in their capacity of being legal representatives to the deceased defendant who had entered into an agreement to sell in favour of the plaintiff therein. In this background, it was observed that it cannot be laid down as an absolute proposition that in a suit for specific performance, a third party can never be impleaded. It was opined that the decision of this court in Kasturi (supra) must be seen in the context in which it was delivered. Furthermore, some circumstantial flexibility is necessary to be taken into account in each case, since an additional or different fact may materially change the conclusion. Therefore, the sons of the original defendant were allowed to file an additional written statement and take the defence of co-ownership which was available to them.
22	H. Anjanappa v. A. Prabhakar, 2025 SCC OnLine SC 183 55. In fact, the scope of Order I Rule 10 and Order XXII Rule 10 CPC is similar. Therefore, the principles applicable to Order XXII Rule 10 CPC, in order to bring a purchaser pendente lite on record, are applicable to Order I Rule 10 CPC. Under Order I Rule 10(2) CPC, the Court is required to record a finding that person sought to be impleaded as party in the suit is either necessary or proper party. While Section 146 and Order XXII Rule 10 CPC confers right upon the legal representative of a party to the suit to be impleaded

	with the leave of the Court and continue the litigation. While deciding an application under Section 146 and Order XXII Rule 10 CPC, the Court is not required to go in the controversy as to whether person sought to be impleaded as party in the suit is either necessary or proper party. If the person sought to be impleaded as party is legal representative of a party to the suit, it is sufficient for the Court to order impleadment/substitution of such person. 56. Thus, a lis pendens transferee though not brought on record under Order XXII Rule 10 CPC, is entitled to seek leave to appeal against the final decree passed against this transferor, the defendant in the suit. However, whether to grant such leave or not is within the discretion of the court and such discretion should be exercised judiciously in the facts and circumstances of each case.
23	Yogesh Goyanka v. Govind, (2024) 7 SCC 524 19. The respondents herein assail the impleadment of the appellant on the ground that he is not a bona fide purchaser as he had full knowledge of the pending litigation. While that is the admitted position, there exists no bar to the impleadment of transferees pendente lite with notice. Permitting the impleadment of a transferee pendente lite is, in each case, a discretionary exercise undertaken to enable a purchaser with a legally enforceable right to protect their interests especially when the transferor fails to defend the suit or where there is a possibility of collusion. 21. On the other hand, the appellant has a registered sale deed in his favour and has therefore seemingly acquired an interest in the subject land. Whether or not the consideration was paid, is a disputed question of fact that shall be determined by the trial court. Therefore, in the considered opinion of this Court, considering the totality of the circumstances in this case, including the fact that the trial has not progressed significantly, the appellant herein, in the interest of justice, is entitled to impleadment in the underlying suit in order to protect his interests, if any, in the subject land.
24	Thomson Press (India) Ltd. v. Nanak Builders & Investors (P)

Ltd., (2013) 5 SCC 397

54. The third dimension which arises for consideration is about the right of a transferee pendente lite to seek addition as a party-defendant to the suit under Order 1 Rule 10 CPC. I have no hesitation in concurring with the view that no one other than the parties to an agreement to sell is a necessary and proper party to a suit. The decisions of this Court have elaborated that aspect sufficiently making any further elucidation unnecessary. The High Court has understood and applied the legal propositions correctly while dismissing the application of the appellant under Order 1 Rule 10 CPC. What must all the same be addressed is whether the prayer made by the appellant could be allowed under Order 22 Rule 10 CPC, which is as under:

“10. Procedure in case of assignment before final order in suit.—

(1) In other cases of an assignment, creation or devolution of any interest during the pendency of a suit, the suit may, by leave of the court, be continued by or against the person to or upon whom such interest has come or devolved.

(2) The attachment of a decree pending an appeal therefrom shall be deemed to be an interest entitling the person who procured such attachment to the benefit of sub-rule (1).”

A simple reading of the above provision would show that in cases of assignment, creation or devolution of any interest during the pendency of a suit, the suit may, by leave of the court, be continued by or against the person to or upon whom such interest has come or devolved. What has troubled us is whether independent of Order 1 Rule 10 CPC the prayer for addition made by the appellant could be considered in the light of the above provisions and, if so, whether the appellant could be added as a party-defendant to the suit. Our answer is in the affirmative. It is true that the application which the appellant made was only under Order 1 Rule 10 CPC but the enabling provision of Order 22 Rule 10 CPC could always be invoked if the fact situation so demanded. It was in any case not urged by the counsel for the respondents that Order 22 Rule 10

could not be called in aid with a view to justifying addition of the appellant as a party-defendant. Such being the position all that is required to be examined is whether a transferee pendente lite could in a suit for specific performance be added as a party-defendant and, if so, on what terms.

Effect of Impleadment on Limitation (Relation Back Doctrine and Its Exceptions)

State of Kerala v. Sridevi, (2000) 9 SCC 168

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5. There was no need to invoke any of the Rules in Order 22 as there was no question of abatement since death of the sole respondent had taken place only after the judgment was delivered by the Sub-Court. The error which had crept in is that the appeal was filed against a person who was not then alive. In such a case Order 1 Rule 10 has to be invoked. There is no specified period of limitation for making an application in the aforesaid Rule and hence, if at all any application is necessary the same could be filed within three years under Article 137 of the Limitation Act. In the present case the application was filed much ahead of that time. It was filed on 22-5-1993.

6. We are satisfied that the wrong person was joined in the appeal as the Government knew about the death of the respondent only when the notice was returned with the endorsement that the said person is no more. Of course, learned counsel for the respondent contended that the Government had opportunity to come to know of that aspect earlier. It may be that one of the officers of the Government would have come to know of that fact. But we are not disposed to credit the Government with the knowledge of his death solely on the ground that one individual government servant had such knowledge. When public interest is involved a bilateral attitude in the matter can be adopted.

Pankajbhai Rameshbhai Zalavadiya v. Jethabhai Kalabhai Zalavadiya, (2017) 9 SCC 700

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10. Order 1 Rule 10 of the Code enables the court to add any person as a party at any stage of the proceedings, if the person whose presence in court is necessary in order to enable the court to effectively and completely adjudicate upon and settle all the questions involved in the suit. Avoidance of multiplicity of proceedings is also one of the objects of the said provision. Order 1 Rule 10 of the Code empowers the court to substitute a party in the suit who is a wrong person with a right person. If the court is satisfied that the suit has been instituted through a bona fide mistake, and also that it is necessary for the determination of the real matter in controversy to substitute a party in the suit, it may direct it to be done. When the court finds that in the absence of the persons sought to be impleaded as a party to the suit, the controversy raised in the suit cannot be effectively and completely settled, the court would do justice by impleading such persons. Order 1 Rule 10(2) of the Code gives wide discretion to the court to deal with such a situation which may result in prejudicing the interests of the affected party if not impleaded in the suit, and where the impleadment of the said party is necessary and vital for the decision of the suit.

20. Having regard to the totality of the narration made supra, there is no bar for filing the application under Order 1 Rule 10, even when the application under Order 22 Rule 4 of the Code was dismissed as not maintainable under the facts of the case. The legal heirs of the deceased person in such a matter can be added in the array of parties under Order 1 Rule 10 of the Code read with Section 151 of the Code subject to the plea of limitation as contemplated under Order 7 Rule 6 of the Code and Section 21 of the Limitation Act, to be decided during the course of trial.

PART-II Order VI RULE 17 CPC AMENDMENT OF PLEADINGS	
27	<i>Annaya Kocha Shetty (Dead) through LRs v. Laxmibai Narayan Satose, 2025 INSC 466</i> The Hon'ble Supreme Court highlighted several procedural mandates for trial courts and lawyers: Warning Against AI-Generated Pleadings: The Hon'ble Court specifically flagged the emerging use of Artificial Intelligence (AI) and computer-generated statements in drafting. It was noted that while technology enhances efficiency, it often leads to copy-pasted, "placid pleadings" that add bulk without adding clarity or legal substance. Active Duty of Trial Courts: The Hon'ble Supreme Court urged trial judges to proactively invoke their jurisdiction under Order VI Rule 16 CPC to strike out irrelevant material at the right stage. Litigants should not force courts to sift through excessive wording to find the real core of a dispute. The Principle of Concision: Pleadings must remain concise, structured, and strictly limited to the cause of action.
28	<i>Jai Jai Ram Manohar Lal v. National Building Material Supply, (1969) 1 SCC 869</i> All amendments should be permitted as may be necessary for the purpose of determining the real question in controversy between the parties, unless by permitting the amendment injustice may result to the other side.
29	<i>Basavaraj v. Indira, (2024) 3 SCC 705</i> Amendment of plaint- Principles summarized. Amendment which would change the nature of the suit can not be allowed.

30	M/s Revajeetu Builders V. M/s Narayanswamy & Sons and ors, (2009) 10 SCC 84 Whether amendment in defendant's pleading can change the nature of the suit ?
31	Mohinder Kumar Mehra V. Roop Rani Mehra, (2018) 2 SCC 132 Time limitation on Amendment- How and when? Or. 6 R. 17 proviso barring entertainment of application for amendment of pleadings after commencement of trial - Trial when commences.
32	State of W.B. v. Pam Developments (P) Ltd., (2025) 3 SCC 356 If the amendment sought amounts to a continuous cause of action and maintains the nature and character of the suit than Section 80 CPC is irrelevant.
33	M. Revanna v. Anjanamma, (2019) 4 SCC 332 9. Having regard to the totality of the facts and circumstances of the case, we are of the considered opinion that the application for amendment of the plaint is not only belated but also not bona fide, and if allowed, would change the nature and character of the suit. If the application for amendment is allowed, the same would lead to a travesty of justice, inasmuch as the Court would be allowing Plaintiffs 1 to 5 to withdraw their admission made in the plaint that the partition had not taken place earlier. Hence, to grant permission for amendment of the plaint at this stage would cause serious prejudice to Plaintiff 6 Respondent 1 herein.
34	State of M.P. v. Union of India, (2011) 12 SCC 268 7. The above provision deals with amendment of pleadings. By Amendment Act 46 of 1999, this provision was deleted. It has again been restored by Amendment Act 22 of 2002 but with an added proviso to prevent application for amendment being allowed after the trial has commenced, unless the court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial. The proviso, to some extent, curtails absolute discretion to allow amendment at any

	stage. Now, if application is filed after commencement of trial, it must be shown that in spite of due diligence, such amendment could not have been sought earlier. 22. Finally, the original plaint proceeds that the exercise of power by the Central Government by passing the impugned Notifications dated 2-11-2004 and 4-11-2004 under Sections 58(3) and 58(4) of the MPR Act was arbitrary, unjust and unfair and had resulted in serious anomalies in the apportionment of assets and liabilities. In our view, after praying for such relief, if the amendment as sought for by the plaintiff is allowed and the plaintiff is permitted to challenge the vires of the said provisions, then the very basis on which the plaintiff is claiming its right to apportionment of assets, rights and liabilities of the undivided Board will cease to be in existence and the entire suit of the plaintiff will be rendered infructuous. Moreover, it is settled principle of law that leave to amend will be refused if it introduces a totally different, new and inconsistent case or challenges the fundamental character of the suit.
35	Jaswant Kaur v. Subhash Paliwal, (2010) 2 SCC 124 27. It is no doubt true, as has been submitted by Ms Shobha, that the power to allow amendment of pleadings is very wide and is to be applied liberally. However, in the context of the instant case, such an argument would not be available to the petitioners since, as found by the courts below, they were fully aware of the will in question, but had not even mentioned the same in their written statement and had only made an application under Order 11 Rules 12 and 14 CPC for a direction upon the respondents to produce the same, which prayer had been rejected. It is only at the first appellate stage, and, that too, about two years after the appeal had been filed, that the two applications were made under Order 41 Rule 27 and Order 6 Rule 17 CPC for amendment of the plaint and for bringing on record the certified copy of the will. By virtue of the said two applications, the petitioners attempted to introduce a new story by way of defence in order to prolong the disposal of the

	appeal.
36	Revajeetu Builders & Developers v. Narayanaswamy & Sons, (2009) 10 SCC 84 63. On critically analysing both the English and Indian cases, some basic principles emerge which ought to be taken into consideration while allowing or rejecting the application for amendment: (1) whether the amendment sought is imperative for proper and effective adjudication of the case; (2) whether the application for amendment is bona fide or mala fide; (3) the amendment should not cause such prejudice to the other side which cannot be compensated adequately in terms of money; (4) refusing amendment would in fact lead to injustice or lead to multiple litigation; (5) whether the proposed amendment constitutionally or fundamentally changes the nature and character of the case; and (6) as a general rule, the court should decline amendments if a fresh suit on the amended claims would be barred by limitation on the date of application. 64. The decision on an application made under Order 6 Rule 17 is a very serious judicial exercise and the said exercise should never be undertaken in a casual manner. We can conclude our discussion by observing that while deciding applications for amendments the courts must not refuse bona fide, legitimate, honest and necessary amendments and should never permit mala fide, worthless and/or dishonest amendments.
37	Vidyabai v. Padmalatha, (2009) 2 SCC 409 10. By reason of the Civil Procedure Code (Amendment) Act, 2002 (Act 22 of 2002), Parliament inter alia inserted a proviso to Order 6 Rule 17 of the Code, which reads as under: “Provided that no application for amendment shall be allowed after the trial has commenced, unless the court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.” It is couched in a mandatory form. The court's jurisdiction to allow

	such an application is taken away unless the conditions precedent therefor are satisfied viz. it must come to a conclusion that in spite of due diligence the parties could not have raised the matter before the commencement of the trial. 19. It is the primal duty of the court to decide as to whether such an amendment is necessary to decide the real dispute between the parties. Only if such a condition is fulfilled, the amendment is to be allowed. However, proviso appended to Order 6 Rule 17 of the Code restricts the power of the court. It puts an embargo on exercise of its jurisdiction. The court's jurisdiction, in a case of this nature is limited. Thus, unless the jurisdictional fact, as envisaged therein, is found to be existing, the court will have no jurisdiction at all to allow the amendment of the plaint. 20. In <i>Salem Advocate Bar Assn. [(2005) 6 SCC 344]</i> this Court has upheld the validity of the said proviso. In any event, the constitutionality of the said provision is not in question before us nor we in this appeal are required to go into the said question. Furthermore, the judgment of the High Court does not satisfy the test of judicial review. It has not been found that the learned trial Judge exceeded its jurisdiction in passing the order impugned before it. It has also not been found that any error of law has been committed by it. The High Court did not deal with the contentions raised before it. It has not applied its mind on the jurisdictional issue. The impugned judgment, therefore, cannot be sustained, which is set aside accordingly.
38	Chander Kanta Bansal v. Rajinder Singh Anand, (2008) 5 SCC 117 13. The entire object of the said amendment is to stall filing of applications for amending a pleading subsequent to the commencement of trial, to avoid surprises and the parties had sufficient knowledge of the other's case. It also helps in checking the delays in filing the applications. Once, the trial commences on the known pleas, it will be very difficult for any side to reconcile. In spite of the same, an exception is made in the newly inserted

	proviso where it is shown that in spite of due diligence, he could not raise a plea, it is for the court to consider the same. Therefore, it is not a complete bar nor shuts out entertaining of any later application. As stated earlier, the reason for adding proviso is to curtail delay and expedite hearing of cases. 15. As discussed above, though first part of Rule 17 makes it clear that amendment of pleadings is permitted at any stage of the proceeding, the proviso imposes certain restrictions. It makes it clear that after the commencement of trial, no application for amendment shall be allowed. However, if it is established that in spite of “due diligence” the party could not have raised the matter before the commencement of trial depending on the circumstances, the court is free to order such application.
39	Gautam Sarup v. Leela Jetly, (2008) 7 SCC 85 30. We will assume that despite the amendments made by the Code of Civil Procedure (Amendment) Act, 1976, amendment of pleadings being procedural in nature, the same should be liberally granted but as in all other cases while exercising discretion by a court of law, the same shall be done judiciously.
40	Chander Kanta Bansal v. Rajinder Singh Anand, (2008) 5 SCC 117 19. As observed earlier, the suit filed in the year 1986 is for a right of passage between two portions of the same property dragged for a period of 21 years. In spite of long delay, if acceptable material/materials placed before the court show that the delay was beyond their control or diligence, it would be possible for the court to consider the same by compensating the other side by awarding costs. As pointed out earlier, when she gave evidence as DW 1, there was no whisper about the written document/partition between the parties. On the other hand, she asserted that partition was oral. Now by filing the said application, she wants to retract what she pleaded in the written statement, undoubtedly it would deprive the claim of the plaintiff. We are also satisfied that she failed to

	substantiate inordinate delay in filing the application that too after closing of evidence and arguments. All these aspects have been considered by the High Court. We do not find any ground for interference in the order of the High Court, on the other hand, we are in entire agreement with the same.
41	Usha Balashaheb Swami v. Kiran Appaso Swami, (2007) 5 SCC 602 17. From a bare perusal of Order 6 Rule 17 of the Code of Civil Procedure, it is clear that the court is conferred with power, at any stage of the proceedings, to allow alteration and amendments of the pleadings if it is of the view that such amendments may be necessary for determining the real question in controversy between the parties. The proviso to Order 6 Rule 17 of the Code, however, provides that no application for amendment shall be allowed after the trial has commenced unless the court comes to a conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial. However, proviso to Order 6 Rule 17 of the Code would not be applicable in the present case, as the trial of the suit has not yet commenced. 18. It is now well settled by various decisions of this Court as well as those by the High Courts that the courts should be liberal in granting the prayer for amendment of pleadings unless serious injustice or irreparable loss is caused to the other side or on the ground that the prayer for amendment was not a bona fide one. In this connection, the observation of the Privy Council in <i>Ma Shwe Mya v. Maung Mo Hnaung</i> [(1920-21) 48 IA 214 : AIR 1922 PC 249] may be taken note of. The Privy Council observed: (IA pp. 216-17) “All rules of court are nothing but provisions intended to secure the proper administration of justice, and it is therefore essential that they should be made to serve and be subordinate to that purpose, so that full powers of amendment must be enjoyed and should always be liberally exercised, but nonetheless no power has yet been given to enable one distinct cause of action to be substituted for another,

	nor to change, by means of amendment, the subject-matter of the suit.” 29. For the reasons aforesaid, we are unable to sustain the judgment of the High Court rejecting the application for amendment of written statement on the ground that if such amendment was allowed it would seriously prejudice the plaintiff. There is yet another aspect of the matter. The trial court on consideration of the written statement as well as the application for amendment of the written statement, in its discretion allowed the application for amendment of the written statement. The High Court ought not to have reversed the said order of the trial court, rejecting the application for amendment of the written statement, when the trial court has exercised its discretion in allowing the amendment of written statement on consideration of the principles of law and the material on record.
42	Ajendraprasadji N. Pandey v. Swami Keshavprakeshdasji N., (2006) 12 SCC 1 60. The above averment, in our opinion, does not satisfy the requirement of Order 6 Rule 17 without giving the particulars which would satisfy the requirement of law that the matters now sought to be introduced by the amendment could not have been raised earlier in spite of due diligence. As held by this Court in <i>Kailash v. Nanhku</i> [(2005) 4 SCC 480] the trial is deemed to commence when the issues are settled and the case is set down for recording of evidence. 61. We can also usefully refer to the judgment of this Court in <i>Baldev Singh v. Manohar Singh</i> [(2006) 6 SCC 498] for the same proposition. A perusal of the proposed amendment would show that it contains numerous averments. So far as the averments in the proposed amendments are concerned, at p. 12 of the order in para 22, the appellants admit that all the issues raised by way of proposed amendment in the written statement were taken before this Court in the appeal from order filed by the present defendants in the civil appeal filed before this Court and again in the special

	leave petition filed subsequently. As rightly pointed out by learned Senior Counsel, any section should not be so interpreted that part of it becomes otiose and meaningless and very often a proviso itself is read as a substantive provision it has to be given full effect.
43	Salem Advocate Bar Assn. (2) v. Union of India, (2005) 6 SCC 344 26. Order 6 Rule 17 of the Code deals with amendment of pleadings. By Amendment Act 46 of 1999, this provision was deleted. It has again been restored by Amendment Act 22 of 2002 but with an added proviso to prevent application for amendment being allowed after the trial has commenced, unless the court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial. The proviso, to some extent, curtails absolute discretion to allow amendment at any stage. Now, if application is filed after commencement of trial, it has to be shown that in spite of due diligence, such amendment could not have been sought earlier. The object is to prevent frivolous applications which are filed to delay the trial. There is no illegality in the provision.
44	Union of India v. Pramod Gupta, (2005) 12 SCC 1 132. We have noticed hereinbefore that before the Land Acquisition Collector the respondents had claimed only a sum of Rs 12,000 per bigha. Despite the same the respondents filed an application purported to be under Order 6 Rule 17 of the Code of Civil Procedure praying for amendment of the memo of appeal and the reference claiming higher compensation. The respondents appear to have further filed applications under Order 41 Rule 27 of the Code for adduction of additional evidence in support of their amended claim. The High Court while rejecting the claim application filed by the appellants allowed the application for amendment as also the application for adduction of additional evidence filed by the respondents. 134. We do not agree. The pleadings before the trial court are the basis for adduction of evidence either before the trial court or before the appellate court. By amending the memo of appeal the

	original pleadings cannot be amended. The respondent claimants made their claim before the Reference Court claiming compensation for the lands acquired under two different references at a certain rate. They are bound by the said pleadings. Section 53 merely provides for applicability of the provisions of the Code of Civil Procedure including the one containing Order 6 Rule 17 thereof. Order 6 Rule 17 of the Code of Civil Procedure postulates amendment of pleadings at any stage of the proceedings. Before an amendment can be carried out in terms of Order 6 Rule 17 of the Code of Civil Procedure the court is required to apply its mind on several factors including viz. whether by reason of such amendment the claimant intends to resile from an express admission made by him. In such an event the application for amendment may not be allowed.
45	Gurdial Singh v. Raj Kumar Aneja, (2002) 2 SCC 445 19. When one of the parties has been permitted to amend his pleading, an opportunity has to be given to the opposite party to amend his pleading. The opposite party shall also have to make an application under Order 6 Rule 17 CPC which, of course, would ordinarily and liberally be allowed. Such amendments are known as consequential amendments. The phrase “consequential amendment” finds mention in the decision of this Court in Bikram Singh v. Ram Baboo [(1982) 1 SCC 485 : AIR 1981 SC 2036] . The expression is judicially recognized. While granting leave to amend a pleading by way of consequential amendment the court shall see that the plea sought to be introduced is by way of an answer to the plea previously permitted to be incorporated by way of an amendment by the opposite party. A new plea cannot be permitted to be added in the garb of a consequential amendment, though it can be applied by way of an independent or primary amendment.
46	Dondapati Narayana Reddy v. Duggireddy Venkatanarayana Reddy, (2001) 8 SCC 115 9. Rules governing pleadings and leading of evidence have been incorporated to advance the interests of justice and to avoid

	multiplicity of litigation. If the claim of the plaintiff Dondapati Narayana Reddy is based upon the will dated 20-8-1994 executed by Dondapati Tirumala Ramareddy, the defendant-appellant has a right to seek the amendment of his written statement incorporating the plea sought to be introduced by way of proposed amendment. Such a prayer cannot be denied on hypertechnical grounds. The amendment should, generally, be allowed unless it is shown that permitting the amendment would be unjust and result in prejudice against the opposite side which cannot be compensated by costs or would deprive him of a right which has accrued to him with the lapse of time. Amendment may also be refused, if such a prayer made separately, is shown to be barred by time. Neither the trial court nor the High Court has found the existence of any of the circumstances justifying the rejection of the prayer for amendment of the written statement. Whether or not the amendment is allowed, the trial court is otherwise obliged to decide the validity of the disputed will which is the basis of the suit filed by the plaintiff. We are of the opinion that the courts below were not justified in rejecting the prayer of the defendant seeking amendment of his written statement.
47	Harcharan v. State of Haryana, (1982) 3 SCC 408 6. In that case an application for amendment of the plaint with a view to alter the cause of action itself and to introduce indirectly through an amendment of his pleadings an entirely new or inconsistent cause of action, amounting virtually to the substitution of a new plaint or a new cause of action in place of what was originally there, was rejected by the High Court and the plaintiff's revision petition to the High Court did not meet with success. This Court granted the application for amendment simultaneously observing that even though this Court would not ordinarily interfere with interlocutory orders, the Court felt compelled in order to promote uniform standards and views on questions basic for a sound administration of justice and in order to prevent very obvious failures of justice, to interfere even in such a matter in a very exceptional case such as the one that was before the Court.

PART-III ORDER XXII CPC Death, Marriage and Insolvency of Parties	
48	Banwari Lal v. Balbir Singh, (2016) 1 SCC 607 Interpretation and application — Rules of procedure under Or. 22 CPC are designed to advance justice and should be so interpreted as not to make them penal statutes for punishing erring parties. On sufficient cause, delay in bringing the legal representatives of the deceased party on record should be condoned.
49	Manovikas Kendra Rehabilitation & Research Institute v. Prem Prakash Lodha, (2005) 7 SCC 224 Right to sue — Whether decree under appeal could be sustained or not in view of the subsequent event of death of decree-holder, is a question to be examined by appellate court, but only after the applicant before it, is permitted to be brought on record.
50	Ghat Talab Kaulan Wala v. Gopal Dass, (2020) 13 SCC 50 Rights of legal representative — Legal representative cannot get larger right than what was vested with original party.
51	M. Siddiq v. Suresh Das, (2020) 1 SCC 1 Suit for enforcement of right to worship — The abatement of suit for enforcement of right to worship on death of plaintiff, depends on whether it was a private or public right to worship in respect of which suit had been filed. In case of the former, suit would abate, while in case of latter it would not.
52	Banwari Lal v. Balbir Singh, (2016) 1 SCC 607 Applicability of doctrine of abatement. — Application to bring legal representatives of the deceased appellant on record, held, revives once appeal is restored. Doctrine of abatement is applicable equally to a suit as well as to an appeal.

53	DDA v. Diwan Chand Anand, (2022) 10 SCC 428 Abatement of appeal.—Appeal as a whole cannot be dismissed as abated for not bringing on record legal representatives of co-sharers/co-owners who died during pendency of appeal.
54	Hemareddi v. Ramachandra Yallappa Hosmani, (2019) 6 SCC 756 Death of one of the several appellants during appeal.—On the death of one of the plaintiffs or appellants and the right to sue does not survive to the remaining plaintiff/plaintiffs or appellant/appellants alone, then the legal representatives of the deceased party can come on record. Should he not do so, ordinarily, the proceeding will abate as far as the deceased party is concerned.
55	Maringmei Acham v. M. Maringmei Khuripou, (2023) 2 SCC 473 Death of party and bringing of LRs on record.—If the legal representatives are brought on record within the prescribed time at one stage of the suit, including at interlocutory/interim stage, it will ensure the benefit of all the subsequent stages of the suit. Consequently, main suit would not stand abated.
56	Shahazada Bi v. Halimabi, (2004) 7 SCC 354 Abatement of suit.— In case of death of one of the defendants and omission to implead legal representatives (LRs) of the deceased defendant, the suit does not abate in entirety but only as against the deceased defendant but where the absence of LRs prevents the court from hearing the appeal as against other respondents, then the appeal abates in toto.

57	T. Gnanavel v. T.S. Kanagaraj, (2009) 14 SCC 294 : (2009) 5 SCC (Civ) 346. Benefit of exemption.— Exemption to bring on record the heirs and legal representatives of the deceased could be taken or granted by the court only before the judgment is pronounced and not after it.
58	Vijay A. Mittal v. Kulwant Rai, (2019) 3 SCC 520. Impleadment of legal heirs.—If out of all the legal representatives, majority of them are already on record and they contest the case on merits, it is not necessary to bring other legal representatives on record.
59	Goli Vijayalakshmi v. Yendru Sathiraju, (2019) 11 SCC 352 Abatement of appeal.—For determination of abatement of appeal against all parties or some of them, principles summarized relating to test of mutually inconsistent or contradictory decrees.
60	Jaladi Suguna v. Satya Sai Central Trust, (2008) 8 SCC 521 Purpose of impleadment.—Impleadment in suit/appeal is for the limited purpose of adjudication of case and not for the purpose of determination of proprietary rights. Proprietary rights are to be determined by way of separate suit.
61	Satyanand v. Shyam Lal Chauhan, (2018) 18 SCC 485. Determination of question as to legal representative.—It is the mandatory duty of the court determine the question as to who will come on record as legal heir.
62	Chhabil Das v. Papu, (2006) 12 SCC 41

	Stage of Impleadment - Once the question as to who is legal representative is decided at the stage of impleadment, the question cannot be reopened at later stage.
63	Varadarajan v. Kanakavalli, (2020) 11 SCC 598 Substitution of legal representative(s).—Determination as to who is the legal representative under Order 22 Rule 5 will of course be for the limited purpose of representation of the estate of the deceased, for adjudication of that case. Such determination for such limited purpose will not confer on the person held to be the legal representative, any right to the property which is the subject-matter of the suit, vis-à-vis other rival claimants to the estate of the deceased.
64	Perumon Bhagvathy Devaswom v. Bhargavi Amma, (2008) 8 SCC 321 Limitation.—The courts can allow the application for condonation of delay and set aside the abatement, if: (i) the respondent had died during the period when the appeal had been pending without any hearing dates being fixed; (ii) neither the counsel for the deceased respondent nor the legal representatives of the deceased respondent had reported the death of the respondent to the court and the court has not given notice of such death to the appellant; (iii) the appellant avers that he was unaware of the death of the respondent and there is no material to doubt or contradict his claim.
65	Chandra Bai v. Khandalwal Vipra Vidyalaya Samiti, (2016) 12 SCC 534 Grant of leave.—Governing principles for grant of leave are :

	(i) granting of said leave is within the discretion of the court, (ii) however, the court has to exercise its said discretion judicially and according to well-established principles, (iii) further, unlike Rules 3 and 4 of Order 22 CPC, no limitation is prescribed for presentation of an application under Order 22 Rule 10 CPC, and (iv) thus, the right to make an application under Order 22 Rule 10 CPC is a right which accrues from day to day and can be exercised at any time during the pendency of suit.
66	Perumon Bhagvathy Devaswom v. Bhargavi Amma, (2008) 8 SCC 321 Nature and scope.—It is the duty on the respondent's counsel to inform the court about the death. If the appellant pleads ignorance even after the court notifies him about the death of the respondent that may be indication of negligence or want of diligence.
