

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2074 OF 2015

BHASKAR SURYABHAN JADHAV
VERSUS
SURYABHAN DHONDIBA JADHAV AND OTHERS

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Advocate for Petitioner : Quadri S.A.P.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: February 24, 2015

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PER COURT :-

1. The petitioner is aggrieved by the order dated 16.12.2014, by which, his application Exhibit 104 for seeking amendment and addition under Order I Rule 10 and under Order VI Rule 17 of the CPC has been rejected.

2. The petitioner / plaintiff has preferred RCS No.71 of 2008 for partition and separate possession with regard to an ancestral property. Defendant No.1 is the petitioner's father. Defendant No.2 is the mother and defendant No.3 is the brother of the petitioner. Defendant No.4 has been arrayed in view of her name appearing in the 7/12 extract in relation to the suit property.

3. The petitioner has learnt that defendant No.4 allegedly has relationship with one Baliram Govind Chavan and a daughter is allegedly born out of the said relationship by name Saraswati. The petitioner contends that neither defendant No.4 nor Baliram Chavan has any concern with the suit property. Application Exhibit 105 is for adding the said daughter Saraswati as a defendant.

4. It is apparent that the suit is for partition and separate possession as regards ancestral property. Outsiders have no concern with the said suit. The petitioner himself has arrayed defendant No.4, since her name appears in the 7/12 extract. The petitioner concedes that Baliram Chavan has no relationship with the suit property.

5. In this backdrop, it is difficult to comprehend as regards the purpose behind seeking the addition of Saraswati as a defendant to the suit, when defendant No.4 Rukminibai is already party to the litigation. Defendant No.4 appears to be the wife of defendant No.1 and in the submission of the petitioner, she is not a legally wedded wife.

6. In the above fact situation, I do not find that the impugned order could be termed as perverse or erroneous. The trial Court has correctly dealt with the contention of the petitioner that some alleged relationship between defendant No.4 with one Baliram Chavan has resulted in the birth of Saraswati and, therefore, being the daughter of an alleged concubine, Saraswati be added as a defendant. The reasons assigned by the trial Court for rejecting application Exhibit 105 are just and proper.

7. The petition being devoid of merits is dismissed.

(RAVINDRA V. GHUGE, J.)

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