

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.719 OF 2015

KISAN YEDU NICHALE

PETITIONER

VERSUS

KALAWATI NARAYAN JAMDADE AND ANOTHER

RESPONDENTS

Mr.N.L.Jadhav, Advocate for the petitioner.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 04/02/2015

PER COURT :

1. I have heard Mr.N.L.Jadhav, learned Advocate for the petitioner for quite some time.

2. The petitioner takes exception to the impugned order dated 10/11/2014, passed below Exh.23 in RCS No.390/2014.

3. The respondents/plaintiffs had moved an application below Exh.23 invoking the provisions of Order 1 Rule 10 of the CPC for adding the subsequent purchaser of the suit property as a defendant. By the impugned order, the said application has been allowed by imposing costs of Rs.100/-.

4. Grievance of the petitioner is that the subsequent purchaser is

neither a necessary party nor an answering defendant. It was contended that the plaintiffs have attempted to expand the scope of the suit and circumstances set out in support of the amendment need no consideration.

5. The suit has been instituted on 25/06/2014. Written statement has been filed on 02/09/2014. The suit is for partition and separate possession. The plaintiffs are aggrieved by the act of the defendant having allegedly created a third party interest by alienating part of the suit property to Mrs. Sheelabai Balasaheb Kothimbire. Application Exh.23 clearly appears to have been filed in promptitude.

6. I do not find that the impugned order suffers from any perversity or illegality. Since a third party interest was created on 10/07/2014 by registered sale deed no.1983 of 2014, the Trial Court has rightly allowed application Exh.23.

7. In the light of the above, the writ petition is devoid of merit and is, therefore, dismissed.

(RAVINDRA V. GHUGE, J.)