

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.9951 OF 2013

Shri Jayant Mahadev Salunke] ... Petitioner

Versus

Grampanchayat Nagthane and Ors.] ... Respondents

Mr. P. B. Gujar for Petitioner.

Mr. R. C. Barge for Respondent Nos.1 and 4.

CORAM :- M. S. SONAK, J.

DATE :- MARCH 25, 2015

P. C. :-

1. This petition is directed against the Order dated 07/08/2013 by which, Civil Judge, Senior Division, Satara, had directed the Petitioner to implead the Respondent No.4 as Defendant No.4 in the suit.

2. The learned Counsel for Petitioner submits that the suit, as instituted, is basically against the Gram Panchayat and relates to property surveyed under no.830. Further, in para 9 of the plaint, the Petitioner has made it clear that the Petitioner is not pursuing the matter so far as encroachments upon property surveyed under nos.890, 891 and 892 is concerned. The reliefs claimed for by the

Petitioner also relate to the property surveyed under no.830. In these circumstances, the Respondent No.4 herein is neither a necessary nor a property party. The impugned order directing impleadment is clearly in excess of jurisdiction and should be set aside. The learned Counsel submitted that in case the impugned order is upheld, several persons, who use the road, put up by encroachments on a portion of the suit property will also claim impleadment, thereby frustrating the progress of the suit.

3. Having heard the learned Counsel for Petitioner and perused the record, there is no reason to interfere with the impugned order. In the first place, the Petitioner, at para 9 of the petition, has alleged that there are encroachments by way of construction of temple, road etc. The Respondent No.4 claims ownership in respect of the property surveyed under no.892 or at least a portion thereof. Secondly, the reliefs claimed in the plaint also pertain to correction in survey records. It is the case of the learned Counsel for Respondent No.4 that if such survey records are to be corrected as desired by the Plaintiff, then property to which the Respondent No.4 has a claim, will possibly be included in the survey records, to which the Petitioner has made a claim. The learned Civil Judge has noted that there was a dispute before the revenue authority is to such a dispute, the Petitioner had impleaded the Respondent No.4 as a party.

4. In making the impugned order, the learned Civil Judge has applied the correct principle. It cannot be said that the impugned

order is vitiated by any jurisdictional error. Accordingly, no case is made out to interfere with the impugned order.

5. Writ Petition is dismissed. There shall be no order as to costs.

(M. S. SONAK, J.)