

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

WRIT PETITION NO.2550/2015

Govind s/o Bhaiyyalal Tirale

..Versus..

The State of Maharashtra, through Department of Excise and others

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

Court's or Judge's orders

CORAM : Z.A. HAQ, J.

DATE : 23.6.2015

Heard Shri A.N. Vastani, the learned advocate for the petitioner, Shri S.V. Sirpurkar, the learned advocate for the respondent no.4 and Shri K.L. Dharmadhikari, the learned A.G.P. for the respondents 1 to 3.

The petitioner/original defendant no.5 has challenged the order passed by the trial Court rejecting his application filed under Order 1 Rule 10 of the Code of Civil Procedure praying that the names of the defendants 1 to 3 be deleted.

The learned trial Judge has considered all the relevant aspects and has rightly rejected the application filed by the petitioner/defendant no.5. The substantive submission on behalf of the petitioner is that the civil suit filed by the respondent no.4/plaintiff is not maintainable and the impleadment of the defendants 1 to 3 as party to the civil suit is unnecessarily prolonging the disposal of the civil suit. The submission made on behalf of the petitioner is misdirected. If the suit is not maintainable, then it will not be maintainable against the petitioner and

other defendants also. It is well established that plaintiff is the *dominus litis* and he has the right to prosecute the civil suit as he feels just and proper. The learned trial Judge has properly adverted to the relevant aspects. I do not see any patent illegality in the impugned order. It cannot be said that the learned trial Judge has failed to exercise the jurisdiction vested in him. The petition is dismissed. In the circumstances, the parties to bear their own costs.

JUDGE

Tambaskar.