

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

Writ Petition No.374 of 2015

(Madhav s/o Pundlik Kamble v. Bhiku s/o Gulab Chawhan and others)

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

Shri A.S. Dhore, Advocate for Petitioner.

Shri S.Y. Deopujari, Advocate for Respondent Nos.2 and 3.

Coram : R.K. Deshpande, J.

Dated : 8th April, 2015

The Appellate Court has rejected the application under Order I, Rule 10 of the Civil Procedure Code filed by the petitioner in Regular Civil Appeal No.35 of 2011, holding that the petitioner is neither a necessary party nor a proper party to an appeal.

The petitioner claims that he is supporting the case of the plaintiffs and also the decree passed by the Trial Court in favour of the plaintiffs. The petitioner has neither filed a suit, nor has been joined as a plaintiff in the suit. If the petitioner has any right in the suit property, it is open for him to file an independent suit. It is not the case of the petitioner that he was not aware of the sale-deed dated 5-3-1990. It is, therefore, not permissible at this stage to permit the petitioner to be joined as the party in the appeal, i.e. either as the appellant or the respondent. The Appellate Court has held that the petitioner is neither a necessary party nor a proper party to the appeal.

No interference is called for in the order impugned. The petition is dismissed.

Judge.

Lanjewar