

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 366 OF 2016

Smt. Sunanda Narayan Bahira
and Ors

..Petitioners.

Vs

M/s Aditya Birla Nuvo Ltd and
Anr

.. Respondents

Mr.Ravindra Dhond i/b Mr. Jayant Apte, Advocate for Petitioners.
Ms. Ankita Pandit i/b Mr S.G.Karandikar, Advocate for
Respondent no.1.

**CORAM : R.G.KETKAR,J.
DATE : 15/12/2016**

PC:

1. Heard Mr.Ravindra Dhond, learned counsel for the petitioners and Ms. Ankita Pandit, learned counsel for respondent no.1 at length.

2. By this Petition under Article 227 of the Constitution of India, the petitioners, hereinafter referred to as 'plaintiffs' have challenged the Judgment and order dated 5.10.2013 passed by the learned Jt. Civil Judge, Jr.Dn., Khalapur below Exhibit 22 in Regular Civil Suit No. 228 of 2012. By that order, the learned trial Judge rejected the application filed by the plaintiffs under Order 1 Rule 10 of C.P.C for impleading (1) Executive Engineer (Construction), Raigad Zilla Parishad, Alibaug, District-Raigad, (2) Tahasildar Khalapur, Taluka Khalapur, District Raigad, (3) Assistant Director of Town Planning, Alibaug, (4) State of

Maharashtra through Collector, Raigad.

3. In support of this petition, Mr. Dhond submitted that the plaintiffs have instituted the suit against defendant no.1-Aditya Birla Nuvo Ltd and defendant no.2-Shri Kishorilal Baldev Sharma, inter alia, for declaration, perpetual injunction. The plaintiffs have claimed possession of the encroached area by the defendants as also for perpetual injunction restraining the defendants. He submitted that the proposed defendants are necessary or proper party for determining the controversy raised in the suit. They have issued N.A. Permission in favour of the defendants.

4. On the other hand, Ms. Pandit supported the impugned order. She submitted that the plaintiffs have already preferred appeal challenging N.A. permission.

5. I have considered the rival submissions advanced by the learned counsel appearing for the parties. I have also perused the material on record. While rejecting the application, in paragraph 4 the learned trial Judge observed that merely because Collector granted N.A permission or in pursuance thereof demarcation is carried out, does not give rise to filing of application for their impleadment. The learned trial Judge held that the proposed defendants are neither necessary nor proper party.

6. After considering the averments made in the plaint as also in the application Exhibit 22, I do not find that the learned trial

Judge has committed any error in passing the impugned order. The proposed defendants are neither a necessary nor a proper party. Hence, Petition fails and the same is dismissed.

(R.G.KETKAR, J.)