

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

WRIT PETITION NO.26 OF 2015

ABDUL GAFFAR S/O ABDUL KARIM SHEIKH AND OTHERS
 VS
 THE SECRETARY GOVT. OF MAHARASHTRA REVENUE AND FOREST DEPT. AND
 OTHERS

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

Court's or Judge's orders

Shri D. C. Chahande, Advocate for the petitioners.
 Shri K. L. Dharmadhikari, AGP for the respondents 1 to 4.
 Shri N. A. Vyawahare, Advocate for respondent no.5.
 Shri M. S. Abbasi Advocate for the respondent no.12, 14 to 18.

CORAM : A.S. CHANDURKAR, J.
DATED : AUGUST 08, 2016.

Heard.

The petitioners who are the original plaintiffs are aggrieved by the order passed by the trial Court on the application moved by the respondent nos.12 and 14 to 18. By the impugned order, said application moved under the provisions of Order 1 Rule 10 of the Civil Procedure Code, 1908 has been allowed.

Shri D. C. Chahande, the learned Counsel for the petitioner submitted that considering the nature of relief sought in the suit, the presence of the said parties who had sought to be added as the defendants was not necessary. According to him, the petitioners were merely trying to protect their joint possession and had sought declaration in that regard. He submitted that the application could not have been granted in view of provisions of Order I Rule 10 of the Code.

Shri M. S. Abbasi and Shri N. A. Vyawahare learned Counsel as well as Shri K. L. Dharmadhikari, learned Asstt. Government Pleader for respondent nos.1 to 4 and 11 supported the impugned order. Reference was made to the averments made

in the plaint as the basis for claiming the relief of declaration of title.

Having heard the respective Counsel, I do not find that the trial Court committed any error in allowing the application below Exhibit-54. The reading of the plaint as well as the reliefs sought clearly indicate that the relief as to declaration of title has been sought by the petitioners. As the applicants also claimed title to the property by succession, the trial Court was justified in allowing the application for impleadment. In absence of any jurisdictional error, I do not find any case made out in writ jurisdiction. The writ petition is, therefore, dismissed. No costs.

JUDGE

/MULEY/

C E R T I F I C A T E

“ I certify that this Order uploaded is a true and correct copy of original signed Order.”

Uploaded by : Sanjay B. Muley,
Personal Assistant.

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