

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1) WP NO.4233 OF 2017

951 WRIT PETITION NO. 4233 OF 2017

PANDIT NAMA RATHOD AND ANOTHER
VERSUS
LAXMIBAI RAM CHAVAN

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Advocate for Petitioners : Mr.Gaikwad Anil M.

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CORAM : P.R. BORA, J.
Dated: March 30, 2017

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PER COURT :-

1. Heard learned Counsel appearing for the petitioner.
2. The petitioner is objecting to an order passed by the learned Civil Judge, Junior Division, Loha, in Regular Civil Suit No.140/2015, below Exh.39 thereof, on 29th November, 2016, whereby the application filed by the original plaintiff for adding one Govind Kanthiram Chavan as defendant no.3 has been allowed.
3. The respondent has filed the aforesaid civil suit for declaration and possession of the suit property. The material on record reveals that during pendency of the suit, the respondent plaintiff came to know that the suit property is illegally sold by the present petitioner to Govind Kanthiram Chavan. In the circumstances, she filed an application under Order 1 Rule 10 of Code of Civil Procedure for adding said Govind Kanthiram Chavan as defendant no.3. Considering the averments in the application, the learned trial Court has allowed the said application.

agp/-

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(2)

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4. Though the present petitioner has assailed the aforesaid order, contending that the trial Court did not consider the objections raised by the petitioners that the real transaction between the plaintiff and the defendant was not of sale but was a loan transaction and that the portion of the land which the petitioner / defendant sold by registered sale deed to Govind Kanthiram Chavan was nothing to do with the dispute raised and, as such, said Govind Kanthiram Chavan was not a necessary party, the objection so raised is liable to be rejected for the reason that the contention so raised could not have been looked into at the stage of deciding the application filed under Order 1 Rule 10 of Code of Civil Procedure. Prima facie, it appears that Govind Kanthiram Chavan is a necessary party to the suit filed by the respondent plaintiff. It does not appear to me that the trial Court has committed any error in allowing the application filed by the original plaintiff. The Writ Petition is devoid of any substance and deserves to be rejected and is accordingly rejected.

(P.R. BORA, J.)

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