

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 3385 OF 2017

Jagannath s/o. Kautikrao Janjal .. Petitioner

Versus

Grampanchayat, Bhaydi, Tq. Bhokardan .. Respondents
Dist. Jalna & ors.

Mr.M.M. Patil (Beedkar), Advocate for the petitioner.
Mr.A.P. Basarkar, A.G.P. for respondent/State.

CORAM : S.B. SHUKRE, J.

DATED : 14.03.2017

P.C. :-

1. Heard. By this petition, order dated 11.01.2017 passed below Exh.5, which is an application seeking leave of the Court under Order 1 Rule 8 of the Civil Procedure Code (for short "CPC") for filing the suit in representative capacity, has been challenged. The provisions of Order 1 Rule 8 of CPC clearly indicate that the persons interested in filing the suit in representative capacity must place before the Court or clearly indicate the names of persons having same interest in the suit, so as to enable the Court to comply with the provisions of sub-rule (2) of Rule 8 of Order 1 of CPC. Said sub-rule (2) lays down that after giving

permission to file the suit in representative capacity, the Court shall at the plaintiff's expense, give notice of the institution of the suit to all the persons so interested. For this, names of the persons interested in the suit along with addresses are required to be furnished by filing proper list at the time of filing of the suit or at least at the time of filing the application, otherwise the Court would not be in a position to satisfy itself as to whether or not the suit has been filed in the representative capacity and there is need for granting permission to file such suit. The Court would also not be in a position to comply with the provisions of sub-rule (2) of Rule 8 of Order 1 of CPC in the absence of any such list or clear indication of the persons interested in filing the suit.

2. On perusal of the plaint as well as the application vide Exh.5, I find that no such indication has been given except for mentioning one name – Anand Sitaram Vasane. The suit as well as application, as filed in the instant case being vague and not giving proper assistance to the Civil Court to record its satisfaction regarding necessity for granting leave or otherwise under Order 1 Rule 8 of CPC, I am of the view that no fault or perversity could be found with the impugned order.

3. Of course, the plaint has also been rejected under Order 7 Rule 11(d) of CPC while rejecting application below Exh.5. Ultimately, the plaint having not disclosed the cause of action, the learned Civil Judge has, apart from rejecting the application vide Exh.5, has also rejected the plaint and I do not see any illegality or perversity in such an approach.

4. There is no merit in the writ petition. The writ petition is summarily dismissed.

[S.B. SHUKRE,J.]