

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

WRIT PETITION NO. 3394 OF 2016

Ramdas Vasudeo Padvi
Age: Major, Occu.: Agri. and Business,
R/o Nawa Plot, Nijampur,
Tq. Taloda, Dist. Nandurbar.

Smt. Chayabai Jaising Padvi
Age: Major, Occu.: Agri. and Business,
R/o Khirnihatti, Tq. Taloda,
Dist. Nandurbar.

..PETITIONERS

VERSUS

Sau. Kelabai Chandu Padvi
Age: Major, Occu.: Agriculture,
R/o Bhawar, Tq. Taloda,
Dist. Nandurbar.

..RESPONDENT

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Mr. Umesh Bhadgaonkar, Advocate for petitioners.
Mr. A.S. Savale, Advocate for respondent.

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**CORAM : RAVINDRA V. GHUGE, J.
DATED : 31st JULY, 2017**

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. The petitioners are aggrieved by the order dated 18th August, 2015 by which application Exhibit 65 filed by the respondent / original plaintiff has

been allowed and the plaintiff is permitted to add ten relatives as defendants in Regular Civil Suit No. 28 of 2009.

3. I have considered the strenuous submissions of Mr. Bhadgaonkar, learned Counsel for the petitioners and Mr. Savale, learned Counsel for the sole respondent who has prayed for the dismissal of this petition.

4. The respondent / original plaintiff has specifically identified the ten “to be added defendants” under paragraph 2 of the plaint. The names of these ten persons as clearly appeared in the description of the family tree in the plaint.

5. The plaintiff sought an amendment on 03rd August, 2015 by application Exhibit 65 seeking addition of the ten persons as Defendant No.3 onwards. Mr. Bhadgaonkar, learned Counsel has strenuously contended that if these ten persons were necessary to the proceedings and without whom the proceedings would not be properly adjudicated upon, then there is no explanation from the plaintiff why she has remained silent on this issue for six years.

6. I find from the impugned order that an additional issue with regards to whether the suit suffers from non-joinder of parties, was framed after the recording of the oral evidence of the parties.

7. It cannot be ignored that the plaintiff has been silent for almost six years and has not added the said ten persons. It also cannot be ignored that the plaintiff realised her error when the additional issue was framed after the recording of the oral evidence and she deemed it proper to add these ten persons before leading the evidence on the said issue. Mr. Bhadgaonkar, learned Counsel strenuously submits that the intention of the plaintiff is to delay the matter as these ten persons to be added as new defendants, would take time to file their written statement and also lead evidence.

8. Considering the above, though I am disposing of this petition without causing any interference in the impugned order, I deem it proper to observe that, considering the grievance of the original defendants that the addition of the ten new defendants is aimed at delaying the matter, if the Trial Court arrives at a conclusion finally in Regular Civil Suit No. 28 of 2009 that the addition of the new defendants was unnecessary and that has resulted in the wastage of time, it shall impose costs on the plaintiff. Rule is discharged.

(RAVINDRA V GHUGE, J.)

SSD