

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

WRIT PETITION NO. 9962 OF 2012

PANDHARINATH RAMBHAU KORDE
VERSUS
RAMBHAU HARI KORDE AND ORS

...

Advocate for the Petitioner : Shri S.P.Salgar h/f Shri Gaware Niteen V.

Advocate for Respondents 2 to 8 : Shri Narwade Narayan B..

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 14th December, 2017

Per Court:

1 The Petitioner/ original Plaintiff is aggrieved by the order dated 18.10.2012 to the extent of partly rejecting the application Exhibit-46 for seeking addition of parties as the proposed Defendant Nos.28 to 31 and 33 to 59.

2 I have considered the strenuous submissions of the learned Advocates for the respective sides.

3 Barring the proposed Defendant No.32, the Trial Court has rejected Exhibit-46 for the reason that the Plaintiff has no where averred in Exhibit-46 as to how all those persons sought to be arrayed as the Defendants are connected with the suit and as to whether, the properties held by them as per 7/12 extracts, are the properties which need to be put

in the common hotchpotch in the suit seeking partition and separate possession. As there is no averment in the application Exhibit-46 with regard to the connection of the proposed Defendants with the suit, the application has been rejected, except as against the proposed Defendant No.32, who is now arrayed as Defendant No.28.

4 The learned Advocate for the Petitioner, therefore, submits that leave may be granted to file a proper application setting out the details about the properties and the proposed Defendants with regard to their connection with the pending suit. He submits that if this leave is not granted, an irreparable harm, serious prejudice and manifest inconvenience would be caused to the Plaintiff as certain portions of the properties, which need to be put in the common hotchpotch, would be left out from the suit.

5 The learned Advocate for the Respondents submits that all contentions and objections with regard to the merits of the application, which the Plaintiff desires to file, be kept open including the prayer for imposition of heavy costs only in the event the Trial Court finds favour with the said application.

6 As such, this Writ Petition is disposed of with liberty as is prayed for.

7 Needless to state, if such an application is filed by the Plaintiff within a period of SIX WEEKS from today, the Trial Court shall consider

the same strictly in accordance with law, including Order 6 Rule 17 and Order 1 Rule 10 of the Code of Civil Procedure. The time spent by the Petitioner in this Court from 06.11.2012 till the passing of this order, shall be a good ground.

kps

(RAVINDRA V. GHUGE, J.)