

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 14652 OF 2017

BHARATBAI BHAGWAN NAIKWADE
VERSUS
PANDURANG RAJKUMAR BHAGWAN BABURAO NAIKWADE

...
Advocate for Petitioner : Mr. Venjane Tukaram M.

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CORAM : V. K. JADHAV, J.
DATED : 19th DECEMBER, 2017

PER COURT:-

1. The petitioner-original defendant No.1 has filed an application Exh.437 seeking directions to the respondent-plaintiff to add the persons mentioned in para 2 of the application, as party to the suit. The trial court by impugned order dated 7.10.2017 rejected the said application Exh.437 in R.C.S. No. 164 of 2004.

2. Learned counsel for the petitioner submits that the evidence of the Chief Officer, Nagar Panchayat, Nilanga has been recorded in the suit and it has come in the cross examination that there are 74 purchasers and in the present suit out of those 74 persons, only 69 persons are impleaded as party to the suit. The petitioner has therefore, filed an application Exh.437 seeking directions to the plaintiff to add the remaining persons as party defendants to the suit.

3. It is a part of record that on earlier occasion, the petitioner-defendant had also filed an application Exh.249 to add 613 persons as

party defendants to the suit which came to be rejected. Learned counsel for the petitioner submits that said application Exh.249 came to be rejected only on the ground that there is no material placed on record to show that those persons are in possession of the suit land to some extent. However, in terms of admission given by the Chief Officer, Nagar Panchayat, Nilanga in his cross examination, the petitioner has filed an application Exh.437.

4. The petitioner-original defendant No.1 in his pleading raised an objection that the suit suffers from non joinder of necessary parties. Despite the evidence of Chief Officer, Nagar Panchayat, Nilanga, if the respondent-plaintiff has not taken any steps to implead the remaining persons as party defendants, his suit would suffer. It is none of the business of the petitioner-defendant No.1 to file an application Exh.437 seeking directions against the plaintiff to implead those persons as party defendants. The suit is for recovery of possession and if certain persons, as disclosed by the Chief Officer, Nagar Panchayat, Nilanga are not impleaded as party defendants to the suit, obviously, it is the plaintiff, who would suffer for the same. The learned Judge of the trial court has therefore, rightly rejected the application. No interference is required. Writ petition is accordingly dismissed. No costs.

(V. K. JADHAV, J.)