

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 1901 OF 2016

Shri Guddusahab R. Mujawar
@ Yunus Mujjawar. ... Petitioner.

Versus

Smt. Janibai Aditwar Bhoir & ors. ... Respondents.

Mr. Uday P. Warunjikar, advocate for petitioner.

Mr. Tushar N. Sonawane, advocate for respondent.

**CORAM : SMT.SADHANA S. JADHAV,J
DATE : OCTOBER 5, 2017**

P.C.:

1 Heard the learned Counsel for the Petitioner and the
learned Respondent.

2 Rule. Rule made returnable forthwith with the consent of
the parties.

3 Being aggrieved by the order dated 14/8/2014, the
Petitioner is challenging order impleading legal heirs as party
defendant to the Civil Suit No. 282 of 2013. In fact, it is the
contention of the Petitioner that Keshav Dharma Patil is the owner of
the 50% of the share of the suit property. However, the share of
Gana Dharma Patil is disputed by the Petitioner. According to the
learned Counsel for the Petitioner, Gana Dharma Patil has expired in
the year 1958. The legal heirs of Gana Dharma Patil had filed an
application seeking impleadment in the Special Civil Suit No. 282 of
2013.

4 The learned Counsel for the Petitioner contends that the
purported legal heirs have not strictly proved that they are the heirs of
Gana Dharma Patil as they are not in possession of any succession
certificate or heir-ship certificate and the possibility that strangers
seek impleadment to Special Civil Suit No. 282 of 2013 cannot be
ruled out. In fact, the claim of Gana Dharma Patil is not denied by
the Petitioner. All that is being denied and challenged is the
genuineness of the status of the proposed defendants.

5 It would be difficult to adopt such pedantic approach to proceedings thereby calling upon the legal heirs of Gana Dharma Patil to submit strict proof of their being legal heirs of Gana Dharma Patil. That may be a matter of evidence and the same can be led either by the Plaintiff in negation of their claim or by the added tenant or can be put to the witness in the cross-examination. Learned Judge has rightly observed that addition of the proposed defendants would be necessary to decide the dispute on merits and it would be final adjudication of the matter in question.

6 This court is of the opinion that the added defendants are necessary parties. However, all contentions of the Petitioner are kept open. This Court has not determined the finality of the issues. Hence, the order dated 14/8/2014 does not call for any interference in view of keeping that issue open. Hence, the petition stands dismissed with no order as to costs.

7 The parties herein are at liberty to seek expeditious
hearing of both the suits. In the eventuality that such an application
is made by the parties to the suit, the learned Civil Judge, Senior
Division shall consider it and do the needful. The Petition is
dismissed.

8 Rule is discharged accordingly.

(SMT. SADHANA S. JADHAV,J)