

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

904 WRIT PETITION NO. 8647 OF 2017

KISHOR BHUTMAL SHAH
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. Girish Nagori
AGP for Respondent-State : Mr. S. P. Tiwari

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CORAM : V. K. JADHAV, J.
DATED : 13th MARCH, 2018

PER COURT :-

1. I do not find any substance in this writ petition. The petitioner has filed application Exh.27 in RCS No. 305 of 2015 under Order I Rule 10 of the Code of Civil Procedure, 1908. Respondent Nos. 4 & 5 have instituted the aforesaid suit for declaration and decree of perpetual injunction against State of Maharashtra, Deputy Director of Town Planning, Jalgaon and Executive Engineer, National Highway Department, PWD, Jalgaon.

2. It is the case of the petitioner that he has filed a complaint in respect of illegal construction carried out by respondent Nos. 4

& 5 herein. In consequence thereof, the administration has taken cognizance of the complaint of the petitioner and it has been noticed that the construction carried out by respondent Nos. 4 & 5 (original plaintiffs) is illegal. On the basis of the said complaint, the concerned authority passed an order to demolish the illegal construction. According to the petitioner, he is necessary party to the suit since action has been proposed and taken by the authorities on the basis of his complaint. The petitioner has, therefore, filed application Exh.27 under Order I Rule 10 of CPC. The respondents / original plaintiffs have strongly resisted the said application with contention that the petitioner has no concerned with the suit property and as such he is not necessary/proper party to the suit. On the other hand, the respondents / original defendants have filed their say that they have already submitted their written statement and the petitioner is necessary party and thus, appropriate order may be passed.

3. It is true that the petitioner though filed a complaint against respondent Nos. 4 & 5 / original plaintiffs for carrying out the illegal construction and on the basis of his complaint, the

authorities have proposed certain action to demolish the illegal construction of respondent Nos.4 & 5 / original plaintiffs. However, on the basis of that alone, the petitioner cannot be impleaded as a party defendant in the pending suit. Admittedly, the petitioner has no interest whatsoever in the suit property.

4. In view of above, I do not find any fault in the impugned order passed by the trial court. The impugned order is well reasoned. I do not find any substance in this writ petition. Writ petition is hereby dismissed. No costs.

(V. K. JADHAV, J.)

vsm/