

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

WRIT PETITION NO. 9888 OF 2018

**BHAGWAT PANDURANG NALAWADE
VERSUS
THE DEPUTY ENGINEER PWD LATUR AND OTHERS**

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Advocate for the Petitioners : Shri V. D. Gunale
AGP for Respondent Nos.1 and 2 : Shri S.R. Yadav-Lonikar

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 29th AUGUST, 2018.

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PER COURT :

1. The petitioner-original plaintiff is aggrieved by the order dated 02/02/2018 passed by the Appellate Court, by which, application Exhibit 34 filed by the petitioner for addition of new defendants in RCA No. 269/2012, has been rejected.

2. The petitioner has strenuously criticized the impugned order. My attention is drawn to the seven grounds formulated by him in the memo of the petition. I have gone through the petition paper book with the assistance of the learned Advocate.

3. The petitioner had filed Special Civil Suit No. 58/2008 seeking possession of the Municipal House No. R-2/396/1 situated at Latur. He claimed to be the owner of a plot admeasuring 625.89 square feet in land Survey No. 55 of village Khadgaon, Taluka and District Latur. The suit plot is claimed to be purchased by the plaintiff under an agreement dated 06/06/1961 from Abdul Gani Khairulla Chowdhari (R.). The suit for specific performance was filed on 07/03/2008. Earlier he has filed Regular Civil Suit No. 325/2000 and the said suit was said to be compromised between the parties.

4. I do not find any pleadings in the plaint, inasmuch as, the record does not reveal any role played by the proposed defendant Nos. 5 and 6, in the suit that was adjudicated upon by the trial Court and which was dismissed after concluding that the plaintiff failed to prove his title to the suit property and he was not in lawful possession of the said suit property. It was proved before the trial Court that the defendants had illegally dispossessed the plaintiff from the suit property. However, the trial Court concluded that the petitioner is not the owner of the suit property, was not having the lawful

possession of the suit property and hence he was not entitled to be granted any reliefs.

5. The trial Court would obviously consider all the grounds set out by the appellant-plaintiff and all his pleadings would naturally be considered while deciding whether the judgment of the trial Court was sustainable or not.

6. I do not find from Application Exhibit 34 filed by the plaintiff seeking addition of two defendants that any pleadings have been sought to be introduced against these defendants. No prayers have been proposed against these proposed defendants. As such, it is not merely a formality to add the proposed defendants, if there are no pleadings or prayers against either of them. The appellate Court has, therefore, rightly rejected Exhibit 34.

7. In view of the above, this petition being devoid of merit is, therefore, dismissed.

(RAVINDRA V. GHUGE, J.)

shp/-