

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

33 WRIT PETITION NO. 7957 OF 2017

SAMPATI SAMPAT NARSINGA NANDGAVE
VERSUS
SHIVRAJ LINGRAM NANDGAVE AND OTHERS

.....

Advocate for Petitioner : Mr. Gaikwad Satish A.

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CORAM : V. K. JADHAV, J.
DATED : 16th APRIL, 2018

PER COURT:-

1. The petitioner has filed an application below Exhibit-54 under Order I Rule 10 of the Code of Civil Procedure for impleading one Mr. Anantram Lingaram Nandgave as party defendant to the suit bearing R.C.S. No. 210/2015 instituted by the present petitioner for recovery of the possession. The trial Court has rejected the said application below Exhibit-54 mainly on the ground that the petitioner has not produced any document on record in support of his contention and further if the said person is inducted in the suit property during the pendency of the suit, there is no need to add him as a party defendant.

2. The learned counsel for the petitioner submits that after this impugned order was passed, on the basis of the so called partition papers placed before the concerned Talathi, the Mutation Entry No. 145 came to be sanctioned on 7.3.2017 and as per the said Mutation Entry No.145, the name of the said Mr. Anantram Lingaram Nandgave appeared in the 7/12 extract of suit land Gat No. 21 to the extent of 60R. However, the said mutation entry and the 7/12 extract could not be produced before the trial Court, for the reason that the said mutation entry came to be sanctioned after passing of the impugned order.

3. It thus appears that said Mr. Anantram Lingaram Nandgave is the proper party to the suit which was subsequent to the suit transaction. The suit property along with ancestral property came to be partitioned among the brothers of defendant no.1.

4. None appears for the respondents, even after the notice of final disposal has been issued and served.

5. In view of the above discussions, the impugned order is

required to be set aside. Hence the following order:

ORDER

- i) The writ petition is hereby allowed. No costs.
- ii) The impugned order dated 2.3.2017 below Exhibit-54 in R.C.S. No. 210/2015 passed by the Civil Judge, Senior Division, Nilanga is hereby quashed and set aside.
- iii) The application below Exhibit-54 is allowed in terms of its prayer clause.

(V. K. JADHAV, J.)

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