

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.10768 OF 2018
(Geetabai w/o Shankarlal Totla and others Vs. Vijayprakash alias
Vijaykumar s/o Shrinivas Totla and others)

Mr.A.S.Bajaj, Advocate for the petitioners.
Mr.S.R.Yadav, AGP for the respondent/State.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 22/10/2018

PER COURT :

1. The petitioners/plaintiffs are aggrieved by the order dated 08/08/2018 passed by the Trial Court thereby rejecting application Exh.245 filed by the plaintiffs seeking addition of parties in Spl.Civil Suit No.8/2006.

2. Grievance is that the persons mentioned in application Exh.226, who are proposed to be added as defendant Nos. 12 to 17, are obstructing the plaintiffs. These persons are therefore required to be arrayed as defendants in the suit which is filed for seeking declaration of title, possession, mesne profits and perpetual injunction. Without addition of these parties, the suit would suffer.

3. It is also stated that the defendants have taken a stand in

paragraph No.2 of the written statement Exh.71 by which it is contended that a major portion of the suit property has been alienated by effecting plots and several purchasers have purchased the said plots, have constructed residential bungalows and commercial buildings and have also occupied the said properties. Commercial activities are also undertaken in the said properties.

4. I find that though the defendants have taken the above mentioned stand, specific details of the purchasers, residential bungalows and commercial buildings have not been mentioned. So also, by Exhibit 226, the only ground put forth by the plaintiffs is that some persons are creating a false record and are creating complications. Specific acts alleged to have been committed by the proposed defendants, are nowhere stated in Exhibit 26 which was initially rejected by the Trial Court on 06/06/2017 after the said application was kept pending by these petitioners from 26/07/2010 for a period of 7 years. A further application Exh.245 was filed seeking a re-hearing of Exh.226 and that has led to the impugned order dated 08/08/2018.

5. In the absence of specific pleadings as regards the acts committed by the proposed defendants and without stating whether

they are purchasers or have occupied the said properties, the Trial Court was right in refusing liberty to allow the addition of the proposed defendants.

6. In the light of the above, I do not find that the impugned order could be termed as being perverse or erroneous. This petition, being devoid of merit, is therefore, dismissed.

(Ravindra V.Ghuge, J.)