

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

WRIT PETITION NO. 13119 OF 2017

YOGESH SHIVPRAKASH DALMIYA  
VERSUS  
GANGAPRASAD JAGDEVLAL JAISWAL AND OTHERS

...

Advocate for the Petitioner : Shri Goyanka M.K..

Advocate for Respondent 1 : Shri K.C.Sant

AGP for Respondents 2 and 3 : Shri N.T.Bhagat.

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**CORAM: RAVINDRA V. GHUGE, J.**

**DATE :- 26<sup>th</sup> November, 2018**

**Per Court:**

1           The Petitioner/ original Defendant No.3 is aggrieved by the order dated 22.06.2017, by which, the application Exhibit 22 filed by him praying for deletion of Defendant Nos.1 and 2 from the plaint in Special Civil Suit No.157/2015, has been rejected.

2           The learned Advocate for the Petitioner has strenuously criticized the impugned order. It is contended that Defendant Nos.1 and 2 are the Government authorities. They are not necessary parties to the proceedings. They are unnecessarily arrayed as Defendant Nos.1 and 2. No reliefs are sought against them. They have been arrayed as the Defendants only to file the suit before the Court at Bhusawal, instead of filing the suit at Muktainagar. Undue hardships are caused to the

Petitioner/ Defendant No.3, who has to travel a distance of about 70 kilometers from his village Kurha, Taluka Muktainagar for attending the court proceedings at Bhusawal.

3           The learned Advocate for Respondent No.1/ original Plaintiff submits that it is for the Plaintiff to decide as to who should be added as a defendant. The Plaintiff feels that the role of Defendant Nos.1 and 2 is decisive in the suit. It is not necessary that reliefs should be claimed against these Defendants so as to justify their being arrayed. If the said defendants have played a decisive role, which would impact the result of the suit, their addition is justified. He further submits that in any case, if the said two defendants have been unnecessarily arrayed, the plaintiff would suffer the consequences for such addition. The Petitioner cannot contend that the addition is unnecessary.

4           He further submits that the plaintiff also belongs to the same village Kurha, to which the Petitioner/ Defendant No.3 belongs and both have to travel from the same village for attending the court proceedings at Bhusawal.

5           I find from the impugned order that the Trial Court has recorded that Defendant No.2, who is a member of the Department, whose administrative head is Defendant No.1, has carried out certain measurement and he is alleged to have refused to demarcate a particular area, which is in possession of the plaintiff, in the map, which he has

prepared. In this backdrop, the Trial Court has concluded that the role of Defendant Nos.1 and 2 would assist the Trial Court in effectively deciding and adjudicating upon the suit.

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

*kps*

**(RAVINDRA V. GHUGE, J.)**