

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.12912 OF 2017

Bhaskar Dattu Jadhav & Ors.	 Petitioners
V/s.	
Namdeo Pundlik Jadhav & Ors.	 Respondents

Mr. Girish R. Agrawal for the Petitioners.

None for the Respondents.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 10TH JANUARY 2018.

P.C. :

1. Heard Mr. Agrawal, learned counsel for the Petitioners.

2. By this Petition, filed under Article 227 of the Constitution of India, the Petitioners are challenging the order dated 22nd March 2016 passed by the Joint Civil Judge, Senior Division, Nashik, below "Exhibit-17" in Special Civil Suit No.367 of 2012. The application at "Exhibit-17" was filed by the Petitioners, under Order 1 Rule 10 of the C.P.C., for impleading them as party-Defendants in the said Suit.

3. The contention of the Petitioners is that, one of the suit properties bearing Gat No.584/1, situate at Village Sonjamb, Taluka Dindori, District Nashik, was originally owned by their grand-father 'Dagadu

Pandu Patil'. After his death on 20th November 1928, it came to the share of his two sons, namely, 'Trimbak' and 'Nana,' in the partition effected in the year 1964. However, inadvertently, due to similarity in the name, the Mutation Entry No.883 came to be effected in the name of 'Dattu Nana Jadhav' and taking advantage of the same, the said land is now included by the Respondents herein in the collusive Suit for partition filed by them. The Petitioners, therefore, filed an application for their impleadment in the said Suit, which application came to be resisted by the Respondents and, ultimately, came to be rejected by the Trial Court.

4. The perusal of the impugned order passed by the Trial Court clearly goes to show that, the question in the present Suit is, *'whether the Plaintiffs of the said Suit are entitled to get partition and separate possession of the suit land?'*. Admittedly, the Petitioners are not intending to claim any share by way of partition in the suit land. However, they are claiming independent title to the suit land and, therefore, in order to claim such relief of ownership and possession in the suit land, bearing Gat No.584/1, the Petitioners had to file a separate Suit for declaration of their ownership and possession. By their impleadment in this Suit, the Petitioners will not get such declaration of their ownership or possession. Their impleadment, otherwise also, in the Suit is not at all necessary for decision of this Suit and hence, as they are

not necessary parties to the Suit, the Trial Court has rightly rejected their application.

5. The impugned order passed by the Trial Court, therefore, being just, legal and correct, this Writ Petition holds no merits; hence, stands dismissed.

[DR. SHALINI PHANSALKAR-JOSHI, J.]