

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4782 OF 2016

SANTOSH TUKARAM PAWAR
VERSUS
BABURAO RAMLA PAWAR AND OTHERS

...
Advocate for Petitioner : Shri Warma B.R.
Advocate for Respondents 4 to 13 : Shri Dhongade A.B.
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CORAM : RAVINDRA V. GHUGE, J.
Dated: January 11, 2019
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PER COURT :-

1. The petitioner / plaintiff is aggrieved by the impugned order dated 29.3.2016, by which, the trial Court has allowed the third party, who are respondent Nos. 4 to 13 in this petition, to be arrayed as defendants in RCS No.76 of 2015.
2. I have considered the strenuous submissions of the learned Advocates for the respective sides.
3. The suit has been preferred by the petitioner / plaintiff for seeking injunction against the three defendants who are disturbing the peaceful possession of the plaintiff over the suit property. Ten 'third' parties filed application Exhibit 12, claiming to be the owners of 80 Ares land out of the suit property on the ground that it is an

ancestral property.

4. Considering the pleadings in the plaint, Shri Warma, learned Advocate is right in contending that he seeks injunction only against the trouble makers and has not raised any issue as regards the title and ownership of the suit property. However, the three defendants have challenged the title and ownership of the plaintiff and the trial Court has observed in paragraph No.9 of the impugned order that considering the rival pleadings it would have to frame an issue based upon the contentions of the defendants pertaining to the title of the suit property and hence, the trial Court would go into the issue of ownership. In the above backdrop, the third parties contend that since they are owners of 80 Ares land, they desire to participate in the said proceedings to indicate that the plaintiff does not have a right or title.

5. I am of the view that the merits of the pleadings need not be gone into at this stage as these third parties are claiming to be owners of 80 Ares land on the basis of their title, which is reflected from the revenue records. Shri Warma submits that he does not desire to touch the 80 Ares land of these third parties and the sketch map which is annexed to the plaint would indicate that 80 Ares land

on the Southern side is not the suit property. The third parties, however, contend that the sketch map is not precise and there is a confusion, which is likely to hamper their interest.

6. Considering the above, I am disposing of the petition by maintaining the impugned order. However, I am imposing the following conditions on the third parties:-

(A) These third parties shall file a common or individual written statement/s on/or before 11.2.2019 before the trial Court as they have already been arrayed as defendants.

(B) The third parties shall not seek any extension of time for filing the written statement/s.

(C) In a peculiar case as the present one, the third parties would submit a sketch map along with their written statement, identifying the 80 Ares land purportedly belonging to them.

(D) If there is no dispute on the sketch map, the trial Court would record that the 80 Ares land belonging to the third parties is not at issue and pursuant to the same, the trial Court would be at liberty to delete the third parties since their share of land is safe and secure.

(E) If the above stated arrangement is not possible, the

trial Court would decide the said suit on it's own merits and if it concludes that the third parties have put forth a vexatious claim, it would proceed to impose costs as deemed appropriate and the said costs amount would be awarded to the plaintiffs.

(RAVINDRA V. GHUGE, J.)

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