

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

WRIT PETITION NO.9048 OF 2019

RAMBHAU BHIMRAO CHAUDHARY
VERSUS
SANTOSH BAPURAO CHAUDHARY

...
Advocate for the Petitioner : Shri Pawar P.S.

...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 06th September, 2019

Per Court:

1 The petitioner/ original defendant in RCS No.830/2015 is aggrieved by the order dated 07.02.2019 passed by the Trial Court, by which, the application exhibit 55 filed by the petitioner to add the Irrigation Department as a defendant in the suit, has been rejected.

2 I have considered the strenuous submissions of the learned advocate for the petitioner and I have gone through the ten grounds formulated in the memo of the petition.

3 The plaintiff has filed the suit for seeking perpetual injunction thereby, restraining the defendant from obstructing his peaceful possession and enjoyment over the suit land. Neither of the parties have made any allegations against the Irrigation Department nor are the reliefs claimed against the said Department. The petitioner submits that the

Irrigation Department deserves to be arrayed as a defendant since it would shed light on the aspect of how much portion of the land was allotted to the plaintiff and defendant.

4 I find that the Trial Court has rightly rejected exhibit 53 for the reason that the Irrigation Department is not an answering or necessary respondent. At the most, the Irrigation Department could be a witness in the matter in order to point out from the record as to how much portion of the land has been allotted to the plaintiff and the defendant. A witness of this type is not to be arrayed as a defendant.

5 In the light of the above, this writ petition, being devoid of merit is, therefore, dismissed.

kps

(RAVINDRA V. GHUGE, J.)