

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8909 OF 2019

Varsha Ashok Salve

...Petitioner

Versus

Monali Milind Salve & Anr.

...Respondents

.....
Mr. D.D.Chaudhari, Advocate for the Petitioner.

.....

CORAM : RAVINDRA V. GHUGE, J.

DATE : 23-07-2019.

PER COURT :

01. The petitioner-original plaintiff in R.C.S. No. 174/2018 is aggrieved by the Order dated 29.3.2019 passed by the Trial Court by which application Exh. 36, filed by a third party seeking leave to be arrayed as a defendant in the suit, has been allowed.

02. The learned Advocate for the petitioner submits that the impugned Order is perverse and erroneous. It is un-sustainable. The third party has no connection with the suit property and a request under Order 1 Rule 10 of the Code of Civil Procedure could not have been accepted by the Trial Court. He relies upon the Judgment of the

Punjab and Haryana High Court in the matter of **Inderjeet Kaur V/s Baldev Singh & Ors., (AIR 2017 Punjab and Haryana 76)** by which the claim of a daughter-in-law to reside in an ancestral house, was refused.

03. The learned Advocate for the petitioner points out that the third party had preferred an application (D.V.) 376/2016 against the petitioner and other close relatives, under The Protection of women from Domestic Violence Act, 2005. The said application was partly allowed and she was granted Rs. 6,000/- as interim maintenance to be paid by the brother of the plaintiff. It is stated that she is residing in the same suit house property.

04. The Trial Court has noted that the third party resides in the said house and as she is occupying the house and is being paid maintenance amount, there is a possibility that the third party may have a voice in the suit. If her claim in the suit is to be discarded at this stage, there is a possibility that she might lose her possession if the suit is decreed, without being heard.

05. In view of the above, I do not find that the impugned Order can be termed as being perverse or erroneous. This petition being devoid of merit is,

therefore, dismissed.

[RAVINDRA V. GHUGE]

JUDGE

Dahibhate/-