

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

WRIT PETITION NO. 7356 OF 2019

**ASHOK MAROTI CHALLAWAR
VERSUS
AMBADAS SHANKARRAO JOSHI AND OTHERS**

...
Advocate for the Petitioner : Shri A. A. Mukhedkar

...

CORAM : RAVINDRA V. GHUGE, J.

DATED : 26th JUNE, 2019.

...

PER COURT :

1. The petitioner/original plaintiff is aggrieved by the impugned order dated 16/04/2019, by which, application Exhibit 14 filed by the defendants in RCS No. 20/2019 seeking addition of defendants, has been allowed.

2. The contention of the petitioner plaintiff is that he has preferred the suit for seeking perpetual injunction in order to restrain the defendants from causing any obstruction to the peaceful possession of the plaintiff and his family members in relation to two houses constructed on the Cidco plots. The plaintiff is disturbed by the existing defendant Nos. 1, 2 and 3 and therefore, he has preferred the suit. Without filing any

written statement on record, the defendants could not have moved an application seeking addition of five persons as defendants. It is, however, stated that there is no bar in law for an application to be entertained for addition of parties under Order I Rule 10 of the CPC, before filing of a written statement.

3. The learned Advocate has strenuously canvassed that the plaintiff has no grievance against any of the proposed defendants. He is not seeking any relief against any of them. He is the master of his suit and does not desire to add any more defendants.

4. Exhibit 14 filed by the three defendants brings forth a chain of events. It is stated that Cidco had allotted the suit properties to two persons namely Ambadas Shankarrao Joshi and Vasant Shankar Joshi. These two persons were owners and possessors of the suit property. They were in need of money and they, therefore, decided to approach defendant Nos. 2 and 3. They requested defendant Nos. 2 and 3 to purchase their house which is a suit property and assured that

they would alienate the said houses to the said defendants by getting a deed of assignment from Cidco Office. Defendant Nos. 2 and 3 acted accordingly as they believed the said two persons. A sale deed agreement was executed by Vasant and Ambadas and the total consideration was paid to them. These defendants have, therefore, acquired a right to the property.

5. It is further mentioned that the petitioner approached Vasant and Ambadas and got a deed of assignment executed. A police complaint was also filed with the concerned police station, subsequently, contending that the third parties are creating obstacles and are disturbing the peaceful possession of the plaintiff. The defendants have further stated that they would be taking up all these grounds in their written statement and would also be filing a counter claim.

6. It is settled law that though the plaintiff would be the master of this suit and decide as to who should be the defendants against whom he desires orders from the Court, if the Trial Court is convinced that the addition of certain parties would be appropriate for a complete adjudication of the suit

and to decide the issues being raised by the parties and if it feels that the persons to be added would have a say in the suit, the Trial Court can permit such additions. Merely because a second view is possible, would not mean that an impugned order should be interfered with.

7. The Honourable Apex Court has held in the matter of *Syed Yakoob vs K.S. Radhakrishnan & Others, 1964 AIR 477 and Surya Dev Rai v. Ram Chander Rai 2003 6 SCC 675*, that this Court, while exercising supervisory jurisdiction, should not interfere with an order unless it is convinced that the order is not only perverse or erroneous, but likely to cause gross injustice to the litigating sides.

8. In view of the above, this petition, being devoid of merit is, therefore dismissed.

(RAVINDRA V. GHUGE, J.)