

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8630 OF 2019
(Ram Ramgopal Agrawal, through LR's Vs. Chandrashekhar
Shyamlal Sharma, through LR's)

Mr.S.S.Bora, Advocate for the petitioners.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 17/07/2019

PER COURT :

1. The petitioners, who are original plaintiffs in RCS No.564/1981 are aggrieved by the order dated 25/06/2019 passed by the Trial Court vide which application Exh.703, seeking addition of the parties under Order 1 Rule 10 of the CPC, has been rejected.

2. The learned Advocate for the petitioners has strenuously criticized the impugned order. Contention is that though the suit is 38 years old, the plaintiffs have alienated the plots out of the suit property to different purchasers on the basis of sale deeds. These purchasers were inadvertently not added as defendants by the plaintiffs. In order to avoid a deficiency in the adjudicatory process, that the petitioners moved Exh.703 seeking addition of 29 parties. The Trial Court has rejected the application on the ground that the

original litigation appears to have started from RCS No.178/1965. The purchase/sale in between the parties commenced by the Lease Deed of 09/05/1952 when the plaintiffs and defendant No.51 lent the property to defendant No.1 for only 3 years. The said defendant filed the suit alongwith 37 others in 1965. By a compromise, the said suit was disposed off and the lease period was extended for 10 years. In the above backdrop, the petitioners now contend that if the parties, who have purchased the suit properties from the plaintiffs, are not arrayed as defendants, there would be complications in the event the suit is decreed and the same is to be executed.

3. I do not find from Exh.703 that the plaintiffs have explained as to when did they alienate the properties and as to why have they now approached the Trial Court for addition of 29 third parties. There are already 71 defendants in the suit and the plaintiffs desire that 29 third parties be now added as defendants.

4. It cannot be ignored that it is the plaintiffs, who have themselves sold certain properties and have created third party interests. Now they desire to add the said 29 persons as defendants. Due diligence is not explained. It is also not stated as to whether these 29 third parties would have any right in the face of they having

purchased the properties during the pendency of the suit as they are purchasers *pendente-lite*.

5. In view of the above, I do not find that the impugned order could be branded as being perverse or erroneous. This petition, being devoid of merit, is therefore dismissed.

(Ravindra V.Ghuge, J.)