

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

16 WRIT PETITION NO.10846 OF 2019

DEEPAK LAXMAN DAVKHAR
VERSUS
VAISHALI SHIVRAM SATHE AND OTHERS

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Advocate for Petitioner : Mr. Rahul B. Temak

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 9th SEPTEMBER, 2019.

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PER COURT :

1. The petitioner-original defendant No.1 in Special Civil Suit No. 37 of 2015, is aggrieved by the order passed by the learned Trial Court dated 09.04.2019 by which, his application Exhibit-118 seeking addition of the District Collector, Ahmednagar and the Municipal Council, Shrirampur as defendants, has been rejected.

2. I have considered the strenuous submissions of the learned advocate for the petitioner. He has drawn my attention to the six grounds formulated in the memo of the petition. He has taken me through the petition paper book.

3. I find from the record that the sister of the present

petitioner has preferred the suit for seeking partition, separate possession, declaration of ownership and injunctory orders. Undivided properties which are claimed to be ancestral properties, have been included in the common hotch pot in the said suit. The record also reveals that some of the suit properties have been acquired by the State Government for a public project and the matter in between the acquiring body, State and the litigants who are entitled to the apportionment of compensation, are before this Court in contra First Appeals filed by the parties. In short, the State Authorities have moved the First Appeal on the ground of exorbitant enhancement and the litigating individuals, who would be the ultimate beneficiaries of the compensation amounts, have also field their First Appeal seeking further enhancement.

4. The strenuous argument of the petitioner is that as the State Authorities are parties to the quantum of compensation Appeals, they also need to be added as defendants in the suit filed by the plaintiff-sister of the petitioner.

5. I find that the pending suit between the plaintiff and the defendants is purely for deciding the respective shares of the family members. The proceeding pending before this Court

pertains to the quantum of compensation. Both are independent proceedings and there is no chance of contradictory orders being passed since an order on quantifying the compensation would have no impact on the pending suit. The shares of the parties decided in the suit would therefore decide the quantum of compensation to which they would be entitled to. Neither the Collector nor the Municipal Council are necessary defendants in Special Civil Suit No. 37 of 2015.

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

(RAVINDRA V. GHUGE, J.)

vsm/-