

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

8 WRIT PETITION NO.10256 OF 2018

NANDKISHOR ASARAMJI BAHETI
VERSUS
THE CHIEF OFFICER MUNICIPAL COUNCIL SELU AND ANOTHER

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Advocate for Petitioners : Shri Patunkar Swapnil S.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: January 21, 2019

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PER COURT :-

1. The petitioner / plaintiff is aggrieved by the order dated 18.7.2018 passed by the trial Court, by which, a third party / respondent No.2 herein has been arrayed as a defendant. The application Exhibit 12 filed by the third party in RCS No.139 of 2010, seeking addition under Order I Rule 10 of the Civil Procedure Code (CPC) has been allowed.

2. Grievance is that the third party was not a necessary defendant since he was purely a complainant, who had complained to the Municipal Council that the petitioner / plaintiff is allegedly encroaching on public land. The Municipal Council has initiated action, which is subject matter of the pending suit. The plaintiff is *dominus litis* being the master of his suit, which is filed for injunction against the municipal council. The third party harbours a grievance against the plaintiff and his appearance is not necessary for deciding the suit.

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3. It is settled law that if a citizen is aggrieved by an alleged encroachment upon a public land, he can raise a grievance. The third party has lodged a complaint with the Municipal Council alleging encroachment by the petitioner. Based on his complaint, action has been initiated.

4. It is equally well settled that an impugned order would not be a perverse order only because a different view is possible. What is required to be assessed is as to whether the dispensation of justice would fail by an impugned order.

5. Considering the above, I do not find that the impugned order could be termed as being perverse. This petition, being devoid of merits is, therefore, dismissed.

(RAVINDRA V. GHUGE, J.)

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