

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

WRIT PETITION NO.14877 OF 2019

**RUSHIKESH PRAKASH KHAROLE AND ANOTHER
VERSUS
CHANDRASHEKHAR SUBHASH KHAROLE AND OTHERS**

...

Advocate for the Petitioners : Shri L.V.Sangeet h/f Ms.Sangeet Minakshi L.

...

**CORAM: RAVINDRA V. GHUGE, J.
DATE :- 10th December, 2019**

Per Court:

1 The petitioners, original plaintiffs in RCS No.122/2011, are aggrieved by the order dated 01.08.2019 passed by the Trial Court by which, the application exhibit 111 filed by the petitioners/ plaintiffs seeking addition of a party under Order I Rule 10 r/w Section 151 of the Code of Civil Procedure, has been rejected.

2 The learned advocate for the petitioners has strenuously criticized the impugned order. He draws my attention to the fact that the defendants, son and father, respectively in the present suit, have specifically averred in a subsequent suit viz. RCS No.121/2018 in paragraph 12 that Shop No.148, Ground Floor in Balaji Peth was operated by defendant nos.1 and 2 and, the wife of defendant no.2 and their employees. Since the reference of the wife has appeared in such pleadings, the plaintiffs desired that she should also be arrayed as a defendant.

3 I have perused the grounds for challenge formulated by the

petitioners in the memo of the petition and have gone through the petition paper book with his assistance.

4 The issue is as to who should be a necessary or proper party and who should be an answering defendant. The parameters are well settled. If the Court finds that the controversy raised in the proceeding cannot be properly adjudicated upon in the absence of any party, it would be appropriate to join such party as a defendant. If an issue can be adjudicated upon without adding a third party and if the verdict in the suit would not affect the third party, no addition is necessary.

5 In the present case, the father and son duo are already defendants. They are conducting the business of jewelery in the said shop. The wife of defendant no.2 happens to assist them along with other employees in the shop. This would not mean that the wife or even the employees, whose references are found in the reproduced paragraph in Marathi in the impugned order, would become necessary or proper parties.

6 In view of the above, I find that the reasons assigned by the learned Judge in passing the impugned order are sound and cannot be branded as being perverse or erroneous.

7 This Writ Petition, being devoid of merit is, therefore, dismissed.