

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

WRIT PETITION NO.15142 OF 2019

SHAIKH NAZIR MOHAMMAD NASIR AND OTHERS
VERSUS
DEPALI HIMMAT MEHERWAL AND OTHERS

...

Advocate for the Petitioners : Dr.S.D.Tawshikar h/f Shri Shaikh Mazhar A.
Jahagirdar

Advocate for Respondent 5 : Shri Patil Swapnil S.

...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 16th December, 2019

Per Court:

1 This matter was heard for quite some time.

2 I found from the record available that the property of the
third party i.e. Plot no.205 has been included in the plaint and has become
the suit property. Temporary injunction order dated 20.04.2018 passed in
Special Civil Suit No.46/2015 would also, therefore, cover the property of
the third party.

3 The learned advocate for the petitioners/ original plaintiffs
sought a pass over. After taking instructions, he submits that the plaintiffs
shall move an application before the Trial Court in Special Civil Suit
No.46/2015 and shall delete Plot No.205 from the suit property.
Appropriate amendment can be carried out in the plaint and the

injunctory order dated 20.04.2018 would also exclude Plot No.205.

4 The learned advocate for respondent no.5/ third party submits that if this statement is recorded as a statement made to the Court and if consequential amendments are carried out within 15 days in the plaint before the Trial Court, he would not mind the impugned order being set aside as his property would not be at issue.

5 In view of the above, this Writ Petition is disposed off by recording the above statement of the plaintiffs. Plot No.205 belonging to the third party/ respondent no.5 herein, shall be deleted from the suit property and the pleadings of the parties. The said property would also be excluded from the injunctory order dated 20.04.2018. Needless to state, in view of these facts, the impugned order dated 01.10.2019 would lose its efficacy.