

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.592/2019

Madhukar Kishanji Doye

..Vs..

Dadarao Dhanjirao Jambhulkar and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri Alok Daga, Advocate for the petitioner.

CORAM : Z.A. HAQ, J.

DATE : 29.1.2019.

Heard.

The respondent No.1 has filed civil suit against the respondent No.2 praying for decree for removal of encroachment and restoration of possession and for permanent injunction. According to the respondent No.1, he has purchased the suit property from Prasad Gruhnirman Sahakari Sanstha by sale-deed executed in 2002. In this civil suit, the petitioner filed an application under Order 1 Rule 10 of the Code of Civil Procedure seeking permission to participate in the civil suit. This application is dismissed by the learned trial Judge by the impugned order. The learned trial Judge has observed that question of title over the suit plot does not arise in the civil suit. The learned trial Judge has further observed that if the petitioner has better title and is in possession of the suit property, he can file separate proceedings and get necessary orders, if required. The conclusions of the learned trial Judge are proper and it cannot be said that the learned trial Judge has

committed any illegality or error of jurisdiction which necessitates interference by this Court in the extraordinary jurisdiction. The plaintiff cannot be compelled to implead somebody if the plaintiff does not want. The plaintiff is the best judge of his cause and has the right to steer the civil suit as he desires and if the plaintiff fails to implead any necessary party, he will suffer the consequences.

In view of the above, the writ petition is **dismissed**. No costs.

JUDGE

Tambaskar.