

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

21 WRIT PETITION NO.2457 OF 2020

SUDAM RAMA DONGARE
VERSUS
SADASIV RAMA DONGARE AND OTHERS

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Mr. N.J. Patil, Advocate for the petitioner.

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CORAM : **Rohit B. Deo, J.**

DATE : 11th February 2020.

ORDER :-

. This petition is liable to be dismissed on the short ground of unexplained delay amounting to latches.

2. By an order dated 29.12.2015, the trial Court allowed the application preferred by Smt. Gavalanbai, Smt. Sindhubai and Shri Ankush under Order I Rule 10 of the Code of Civil Procedure. This order is challenged after 4 years and 2 months. There is absolutely no explanation for the delay in approaching this court.

3. That apart, the petition is not maintainable since Smt. Gavalanbai and Smt. Sindhubai are not joined as parties to the petition.

4. Even on merits, the petition is without substance. The trial Court rightly considered entitlement of Smt. Gavalanbai, Smt. Sindhubai and Shri Ankush to impleadment in the suit, thus :

“4. Heard both sides at considerable length. Perused the record. It appears that as per the contention of the plaintiff that the suit land survey No.25 is the ancestral property, on perusal of 7/12 extracts at Exh.9, it appears that the suit land is recorded in the name of plaintiff and defendants vide mutation entry No.569. On perusal of mutation entry No.333, it appears that in the partition, the land survey No.25 was allotted to the share of Ankush Navle. It appears that the said partition is also effected in the revenue record. On perusal of mutation entry No.315, it appears that Ankush Navle has transferred some land out of the survey No.25 to his sister namely Gavalanbai on 26/06/1998. Therefore, these documents are sufficient to show that the applicants were the original owner of suit land survey No.25. On perusal of order passed by Sub-Divisional Officer, Ambajogai in file No.2012/ROR/1/35 on 10/07/2014. It appears that the mutation entry No.569 is cancelled. Therefore, from this it clearly

transpires that the mutation entry on which basis the name of plaintiff and defendants were recorded in the record of rights is cancelled. Therefore, ultimately, the cancellation of said mutation entry shows the ownership of applicants over the said suit land. Therefore, in my considerable opinion, in the present considering the interest and the right of the applicants in the suit land survey No.25, they are necessary party in the present suit. Therefore, in my considerable opinion that it is requisite and necessary to implead the applicants as a defendants in the present suit".

5. The petition is dismissed.

(ROHIT B. DEO, J.)