

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

31 WRIT PETITION NO.91 OF 2020

DILTAJ SULTAH PATHAN
VERSUS
USMAN SARDAR SHAIKH AND OTHERS

...
Advocate for Petitioner : Mr. S.R. Sapkal h/f Mr. Sapkal V.D.

...
CORAM : ROHIT BABAN DEO, J.
Date : January 06, 2020

...
PER COURT :-

1 In a suit brought for partition and separate possession, an application under order 6 rule 17 was preferred, inter-alia, seeking permission to implead the present petitioner as party-defendant.

2 It is not in dispute that the present petitioner has purchased the suit property from defendant No.3. In this view of the matter, the present petitioner is a proper party, if not necessary party and I do not find any error in the impugned order.

3 Learned counsel, however would strenuously urge that incorrect provisions are referred to and acted upon. The submission is that the application ought to have been preferred under order 1, Rule 10 . It is well settled that, if the order of the Court is traceable to provisions, the fact that an incorrect provision is referred to by the party, does not affect the legality of the order.

4 The petition is without substance and is rejected.

(ROHIT BABAN DEO, J.)