

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

987 WRIT PETITION NO.2387 OF 2021

JAGANNATH NARAYAN SAVTAR
VERSUS
SHIVAJI VISHWANATH SAVTAR AND OTHERS

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Advocate for Petitioner : Shri Patil Sujit A.

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CORAM : N.J. JAMADAR, J.

DATE : 05/03/2021

P.C. :

1. Heard the learned counsel for the petitioner.
2. The petitioner assails an order passed by the learned Civil Judge, S.D. Osmanabad below an application to implead one Jagannath Shekba Houl as a party defendant to the suit instituted by the petitioner/plaintiff for declaration and injunction.
3. The defendant No. 9 resisted the suit by filing written statement. The defendant No. 9 has asserted that the suit property was acquired by Satyabhamabai, her mother under the sale-deed executed by Janardhan. It was further contended that the plaintiff had neither sought the relief of cancellation of the said sale deed in favour of said Satyabhamabai, the predecessor-in-title of respondent No. 9, nor paid Court fees thereon.

4. In the backdrop of aforesaid defences, the plaintiff preferred an application (Exh. 51) seeking to implead said Janardhan as a party defendant to the suit. By the impugned order, the learned Civil Judge Senior Division rejected the application opining, inter-alia, that since the plaintiff seeks reliefs of declaration of ownership and perpetual injunction the impleadment of Janardhan was not necessary for complete and effectual adjudication of the dispute between the parties.

5. Evidently, Janardhan has no direct interest in the subject matter of the suit. It is not the case that in the absence of Janardhan the Court can not pass an effective decree. He had conveyed the suit property to the predecessor-in-title of respondent No. 9. Janardhan is thus neither a necessary nor a proper party. Thus, the learned Civil Judge, Senior Division, Osmanabad was justified in rejecting the application.

6. The petition being devoid of any substance stands dismissed.

(N.J. JAMADAR)
JUDGE