

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION (ST) NO.12922 OF 2019

Subhash Gungaji Shelke & Anr. Petitioners

Vs.

The Collector, Sangli & Anr. Respondents

Mr. Umesh H. Pawar for Petitioners.

Ms. M.S. Bane, AGP for Respondent Nos. 1, 3 and 4.

Mr. Vijay Killedar for Respondent Nos. 2 and 4.

Mr. Satyajeet A. Rajeshirke for Respondent Nos. 6, 8 to 12.

Coram : NITIN W. SAMBRE, J.

Date : 4th MARCH, 2021

P.C.:

1. Regular Civil Suit No. 553 of 2019 was initiated by Respondent Nos.6 to 12 seeking declaration, injunction, removal of encroachment and fixation of boundaries. The Petitioners moved an application under Order I, Rule 10 of C.P.C. seeking impleadment, in the said suit, as according to him, an injunction, if so granted is going to be affected his rights as admittedly road passes through the land Gat No. 1409 of which he is owner.

2. The said application is rejected by the trial Court vide impugned order dated 9th December, 2019. As such, this petition.

3. With the assistance of the respective Counsel, I have perused the prayers in the plaint, so also the plaint map. It is apparent that the Petitioners are the owners of land Gat No. 1409, whereas the Respondents-Plaintiffs are owner of Gat No. 1453. Admittedly, the disputed road, which is shown in the suit map also passes through the land of the Petitioners.

4. In the aforesaid backdrop, contention of the learned counsel for the Respondents/Plaintiffs that road is in existence since long i.e. more than 20 years and the dispute is not relating to as to whether the road is required to be removed, but through its allotment does not warrant impleadment cannot be accepted.

5. If admittedly, the road is passing through the land of the Petitioner i.e. Gat No.1409 and adjoining to the land of the

Respondents / Plaintiffs i.e. Gat No. 1453, any adjudication about the said road passing from the field of the Petitioner will definitely affect his rights. As such, in my opinion, for deciding controversy, the Petitioner is required to be added as an appropriate party to the suit. As such, the order impugned dated 9th December, 2019 passed below Exhibit 51 in Civil Suit No.553 of 2019 is hereby quashed and set aside.

6. Application No. 51 stands allowed in above terms.

(NITIN W. SAMBRE, J.)