

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.1271 OF 2021

Surekha Ramdas Harne Vs. Grampanchyat, Shelu Bazar, Dist. Washim and Anr.

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

Court's or Judge's orders.

Shri N.A. Gawande, Advocate for petitioners.

CORAM : V.M. DESHPANDE, J.

DATE : 9th MARCH, 2021.

Heard Shri N.A. Gawande, learned counsel for
the petitioners.

(2) By this writ petition the petitioner is challenging an order passed by the learned Joint Civil Judge, Junior Division, Mangrulpir below Exhibit-14 in Regular Civil Suit No.21 of 2020 dated 10.11.2020, thereby learned Judge of the Trial Court has allowed the application filed on behalf of respondent no.2 under Order I Rule 10 of the Code of Civil Procedure.

(3) It is the submission of learned counsel for the petitioner that respondent no.2 is not at all necessary party therefore the learned Court has erred in allowing him to join as party defendant.

(4) The petitioner/plaintiff has filed a suit claiming injunction against respondent no.1 that respondent no.1 shall not disturb the peaceful possession of the plaintiff.

(5) During the pendency of the suit the respondent no.2 filed an application that he be joined as party defendant. In that application, respondent no.2 pointed out that petitioner and her husband have made encroachment on the Government land. In that regard he also made a complaint to the Collector, Washim that due to illegal encroachment on the part of petitioner and her husband there is an obstruction to flowing water from the canal.

(6) The parties are either necessary party or proper party. As per statement of learned counsel for the petitioner respondent no.2 is not a necessary party. He may not be necessary party but surely he is a proper party inasmuch as respondent no.2, who firstly pointed out that the petitioner and her husband have made encroachment over Government land.

(7) I am of the view that the learned Judge of the Trial Court has rightly observed in paragraph No.6 of the impugned order warranting no interference by this Court. Hence, the writ petition is dismissed. No order as to costs.

JUDGE

Wagh