

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.5201 OF 2017

Krushna s/o Sakharam Khobragade (Dead) through Lrs. 1(a) Smt. Lata Wd/o Krushna
 Khobragade and others

Vs.

Shanti Construction Firm/Company, Nagpur through its Managing Director, Shri
 Prabhakar S/o Jagannath Pardhi and others

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

Court's or Judge's orders

Mr. P. S. Tidke, Advocate for petitioners.
 Ms. Apurva D. Kolhe, Advocate for respondent No.1.
 Mr. S. S. Sitani, Advocate for respondent Nos.4 and 6.

CORAM : AVINASH G. GHAROTE, J.
DATE : 24/09/2021

Heard Mr. Tidke, learned Counsel for the petitioners, who challenges the order dated 14.10.2016 filed by the petitioners, seeking intervention / addition in Special Civil Suit No.333 of 2009 on the ground that they are proper and necessary parties, which application has been rejected by the impugned order.

2. It is material to note that Special Civil Suit No.333 of 2009 is filed by plaintiff, who is respondent No.1, against the respondent Nos.2 to 6 for cancellation of the Sale Deed dated 8.5.2008 under which the respondent Nos.2 to 6 claim title to the suit property. The ground for claiming cancellation, are not germane.

3. The present petitioners claim through the plaintiff/respondent No.1, who has an earlier Sale Deed dated 4.3.2005 in his favour on the basis of which unauthorized layout was made upon the land and various

plots therein are claimed to have been agreed to be transferred to the petitioners under various agreements where under the petitioners are claimed to have been put into possession of the respective plots, it is therefore, on this ground, that the petitioners claim to be proper and necessary properties.

4. The petition is supported by the respondent No.1/ plaintiff. Mr. Sistani, learned Counsel for the respondent Nos.4 and 6 submits that original defendant Nos.2 and 2-II / respondent Nos.3 and 5 are no more. However, respondent Nos.4 and 6 are their only legal heirs. He submits that the petitioners have no independent right in the subject matter of the suit, since they are claiming through the plaintiff and therefore, they are neither proper nor necessary parties to the suit.

5. It is an admitted position, that the petitioners, are claiming through the plaintiff/respondent No.1, who is claimed to have executed various agreement and possession receipts in their favour. Thus, the petitioners, would be falling into the shoes of the plaintiff/respondent No.1. In so far as the dispute in Special Civil Suit No. 333 of 2009 is concerned, they have no independent right apart from what they claim through and under the plaintiff/respondent No.1. The contention is that they would be required to support the rights claims/received by them through the plaintiffs/respondent No.1. Which in my considered opinion cannot be a ground to add the petitioners as party respondents to the suit as a mere desire to support the plaintiff, in the proceedings in Special Civil Suit No.

333 of 2009, would not make them proper and necessary parties.

6. In that view of the matter, I do not find any infirmity in the impugned order passed by the learned Trial Court. The Writ Petition is without any merits, and therefore, dismissed. No costs.

JUDGE

Sarkate