

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

WRIT PETITION NO. 1 OF 2021

Bandu s/o Bapurao Ingale

Vs.

Gajanan Bhagvan Ingale and others

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

Court's or Judge's orders.

Shri Sachin Deshpande, Advocate for petitioner.

CORAM : V.M. DESHPANDE, J.

DATE : JANUARY 13, 2021.

Heard Shri Sachin Deshapnde, learned counsel
for the petitioner.

(2) Learned counsel for the petitioner submitted that by rejecting an application under Order I Rule 10 of the Code of Civil Procedure moved by the petitioner his rights are prejudiced inasmuch as there took a partition in between him and his father (original plaintiff) in 2013 and therefore he ought to have been joined a party.

(3) Admittedly, the partition between the petitioner and the respondent No.7, who is father, took place in the year 2013. The application under Order I Rule 10 of C.P.C. was moved on 14.09.2020 at the stage of final arguments of the suit. Further, the plaintiff who is *dominus litis* has not given any say on the application of his son, that he wishes to contest with his son.

(4) The petitioner is the only son of respondent No.7. It is not the case of the petitioner, that it was not within knowledge of the petitioner about pendency of the suit. There is nothing in the application as to why the petitioner took more than seven years for moving the application to join him as a defendant and especially at the stage, when the suit is about to be culminated after hearing the parties to the suit. This, in my view, clearly shows that writ petition is nothing but a device to stall the progress of the suit.

(5) Hence, writ petition is dismissed. No order as to costs.

JUDGE

Wagh