

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

935 WRIT PETITION NO.5815 OF 2022

VAIJANATH VENKATRAO JADHAV
VERSUS
MOHD. HAMIDUDDIN BASHEERUDDIN DIED THROUGH LRS.
MD. RAISPASHA MD. HAMIDUDDIN AND OTHERS

Advocate for Petitioner : Mr. D.M. Shinde h/f. Mr. Ingole R. K.
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CORAM : MANGESH S. PATIL, J.

DATE : 7 JULY 2022

PC :

The petitioner who is a stranger to the suit is aggrieved by rejection of his application preferred under Order I Rule 10 of the Code of Civil Procedure for impleadment.

2. I have heard learned advocate Mr. Shinde h/f. Mr. Ingole for the petitioner.

3. The suit is between the persons who are putting up a claim to the suit property through a common ancestor who was the original *Inamdar*. The dispute whether it was a service *inam* or merely a *Madadmash* is an issue. A compromise has been entered into before the Supreme Court by some of them in a previous litigation. By way of present litigation, some of the claimants are questioning the legality and validity of that compromise.

4. The petitioner claims to be in possession of a portion of the suit property on the basis of an oral agreement of sale with one Rama Dashratha Jadhav who happens to be the son of Dashratha who was claiming to be the occupant.

5. The reliefs being claimed in the suit are to the effect that the compromise arrived at in the Supreme Court is illegal and would not change the nature of the *inam* with a declaration that it is a service *inam* and not a *Madadmash*.

6. Though howsoever the petitioner might be interested in the result of that suit, by no stretch of imagination can he be said to be a necessary party. Indeed, his right to seek specific performance or to hold back the possession may be dependent on the outcome of the suit but that would not make him a necessary party. The suit can be adjudicated upon and the reliefs can be granted even in his absence. Consequently, his participation in the suit is not necessary rather it is certain to give rise to complex issues redundant to the main proceeding.

7. There is no illegality in the order passed by the trial court rejecting his application. Petition is dismissed.

[MANGESH S. PATIL]
JUDGE

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