

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**WRIT PETITION NO.13537 OF 2018**

DROPADABAI BAPUSAHEB WALUNJ  
VERSUS  
RAOSAHEB KASHINATH WALUNJ AND OTHERS

...

Advocate for Petitioner : Mr. R. R. Karpe  
Advocate of Respondent Nos.1 to 4 & 11: Mr. V. V. Tarde

...

**CORAM : NITIN B. SURYAWANSHI, J.**

**DATE : 28<sup>th</sup> September, 2022**

**PER COURT :-**

1. The petitioner is challenging the order passed by the learned Civil Judge, Junior Division, Rahuri below Exhibit-51 in Regular Civil Suit No.668/2014, thereby allowing application filed by respondent no.11 and permitting her to appear in the suit as third party.
2. The petitioner/plaintiff has filed suit for partition and separate possession. The learned Advocate for the petitioner submits that, application Exhibit-49 raising similar contentions filed by another third party was rejected by the Trial Court earlier. However, application filed by respondent no.11 seeking impleadment in the suit as third party on the same ground that she has purchased part of suit property and therefore, she may be impleaded as third party in the suit, is erroneously accepted by the Trial Court. According to

him, plaintiff being *dominus litis*, therefore, she is entitled to claim relief against the defendants. According to him, suit can be decided in absence of respondent no.11.

3. The learned Advocate for the respondents, on the other hand, supports the impugned order and submits that suit has proceeded and evidence of respondent no.11 is recorded in the year 2019 itself and the matter is posted for her cross-examination, which the petitioner is not conducting on the ground of pendency of present petition.

4. In view of the fact that respondent no.11 has purchased 3/4 guntha land and she has constructed house there bearing Municipal Property No.13223 – P-4006223 and she has obtained electricity connection there and she is in possession of the said portion since the date of her purchase, further taking into consideration fact that she has already led her evidence in the Trial Court, I am not inclined to entertain the petition. The writ petition is, therefore, dismissed. No costs.

**[NITIN B. SURYAWANSHI, J.]**