

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5916 OF 2018

Padmanabh Anantrao Panditrao ..Petitioner
Versus
Shrikrishna Anantrao Panditrao and Ors. ..Respondents

Mr. Premlal Krishnan a/w Jaya Alle i/by Pan India Legal, for the
Petitioner.

Mr. C. D. Mali, AGP for the Respondent/State.

Mr. Roshan Sawant i/by Yuvraj P. Narvankar, for the Respondent Nos.1 &
6.

CORAM : NITIN W. SAMBRE, J.

DATE : 4th APRIL, 2022

PC.

1. Heard learned counsel for the petitioner, learned AGP for
respondent Nos.2 to 5 and Mr. Roshan Sawant holding for Mr. Yuvraj
Narvankar for respondent Nos.1 & 6.

2. Respondent No.1/plaintiff initiated RCS No.338 of 2016 in
which application Exh.27 is taken out by the petitioner for impleadment
under Order I Rule X of the CPC which came to be rejected vide
impugned order.

3. The submissions are, the suit property which is the subject
matter of the Regular Civil Suit is ancestral one and that being so, the
petitioner has share in the suit property. The aforesaid pleadings are
found to be a basis of impleadment.

4. If this Court appreciates said contentions, what can be noticed is cause of action narrated in the plaint has nothing to do with the claim put forth by the petitioner. Petitioner if have claim in the suit property that can be independently established by him. In the aforesaid background, petitioner has already taken recourse to appropriate proceedings so as to establish his claim for the suit property.

5. In the aforesaid background, upon perusal of pleadings in the plaint, admittedly, entitlement of the petitioner, if any, to the suit property can be decided in other pending suit. The suit claim in this case can be adjudicated even in the absence of the petitioner. Plaintiff is *dominus litis*. It is for the plaintiff to whom he has to add as party. Rightly so pointed out that the petitioner is already party to the partition suit which is pending adjudication.

6. That being so, no case for interference in the impugned order is made out.

7. The petition as such fails, dismissed.

8. Needless to clarify that right, if any, of the petitioner in the suit property against the respondents can be independently asserted.

[NITIN W. SAMBRE, J.]