

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

WRIT PETITION NO. 3999 OF 2022

Muhammad Shakil Muhammad Kalim__ Vs. __ Prashant Ramrao Patil and ors

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

Court's or Judge's orders

Mr.A.B.Mirza, Advocate for petitioner

Mr. M.N.Ali Advocate for respondent Nos. 1 and 2.

Ms. Trishala Dhait, Advocate h/f Mr. Abhay Sambre, Advocate for Respondent No.3

Mr. N.R.Patil, AGP for Respondent Nos. 4 to 6

CORAM : AVINASH G. GHAROTE, J.

DATE : 11/10/2022

1] Heard Mr. Mirza, learned counsel for the petitioner.

2] The petition challenges the order dated 5.3.2020 passed by the learned Trial Court, whereby the application under Order I Rule 10 of the CPC filed by the petitioner for impleading him as defendant No.2 in the suit has been rejected by the Trial Court, on the ground that the controversy before the Court in the suit is of such a nature that the participation of the petitioner is not necessary.

3] Mr. Mirza, learned counsel for the petitioner submits that the proceedings leading to the issuance of the notice which is challenged in the suit are the result of the persuasion of the petitioner and therefore, the petitioner is a proper and necessary party.

4] What is necessary to note is that the notice dated 6.1.2018 which is challenged in the suit, seeks demolition of the construction made on Government land bearing Nazul Plot No. 377/3. It is an admitted position that the petitioner has neither been allotted plot no. 377/3, nor any right is created in the petitioner therein. The only claim made by the petitioner is that he has filed an application for allotment of Plot No. 377/3 to the Collector, which is pending. That by itself would not create any interest in the aforesaid property in the petitioner so as to make him a proper and necessary party for decision of RCS No. 13/2018. The learned Trial Court by the impugned order has observed that the participation of the petitioner is not required for the adjudication of the suit, considering the nature of the controversy in the suit, with which I see no reason to defer. I therefore do not see any reason to interfere in the impugned order. The petition is accordingly dismissed. No costs.

JUDGE

Rvjalit