

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

WRIT PETITION NO.4969 OF 2021

1. Shri Shriram Vitthal Zapparde
Age about 53 Yrs.
Occ: Agriculturist.
2. Shri Sanjay Vitthal Zapparde
Age about 48 Yrs.
Occ: Agriculturist.

Both R/o At Malegaon Bajar,
Tq. Telhara, Dist. Akola.

..... **PETITIONERS**

...V E R S U S...

1. Sanjay Bhagwan Bahakar
Age about 48 Yrs.
Occ: Agriculturist.
2. Raju Bhagwan Bahakar
Age about 43 Yrs.
Occ: Agriculturist.

Both R/o At Pimpri Adgaon,
Tq. Sangrampur, Dist. Buldhana.

..... **RESPONDENTS**

Mr. O. Y. Kashid, Advocate for Petitioners.
Mr. G. G. Mishra, Advocate for Respondents.

CORAM: **ROHIT B. DEO, J.**
DATE: **7th MARCH, 2022.**

ORAL JUDGMENT:

Heard Mr. O. Y. Kashid, the learned counsel for the petitioners and Mr. G. G. Mishra, the learned counsel for the respondents.

2. The petitioners are the plaintiffs in Regular Civil Suit 61/2017 which is instituted against the respondents herein seeking declaration and injunction.

3. The plaintiffs preferred an application under Order 1 Rule 10 of the Code of Civil Procedure (Code) for addition of parties. This application is rejected by the order impugned dated 17.11.2018.

4. Apart from the fact that this petition is liable to be dismissed on the short ground that the four persons whom the plaintiffs seek to drag into the litigation as defendants are not made parties to the petition, on merits of the matter, I find no error whatsoever in the order impugned.

5. I have perused the application under Order 1 Rule 10 of the Code. The first averment is that if the four persons whose impleadment is sought, are not impleaded, the plaintiffs shall be put to hardship since necessary material will not come on record. The other averment is that the said persons will be bound by the order which will be passed by the Court, and therefore, are necessary parties.

6. The learned trial Judge has reasoned that there is

absolutely no justification pleaded in the application seeking impleadment of parties nor is that any attempt made to demonstrate that the parties are necessary parties. It is further noted that no relief is sought as such by the plaintiffs against the persons whose impleadment is sought.

7. Another aspect of the matter is that the order impugned dated 17.11.2018 is challenged after nearly three years.

8. In order to keep the record, the submission of the learned counsel Mr. Kashid that the plaintiffs are also challenging the order dated 06.08.2021 below Exhibit-54, is duly noted. Order dated 06.08.2021 rejects the application preferred by some persons who sought impleadment in the suit. If at all the said persons are aggrieved, they could have preferred a petition. It is not for the plaintiffs to espouse their cause. I therefore, refrain from considering the merits or otherwise of the contention as regards the order impugned dated 06.08.2021 below Exhibit-54.

9. The petition is without substance and is liable to be dismissed.

JUDGE