

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

WRIT PETITION NO.7364 OF 2022

**HARIOM RAMGOPAL AGRAWAL
VERSUS
PRIYANKA NILESH TATIA ALIAS JAIN AND ANOTHER**

...
Mr. Mahesh R. Bhokariker, Advocate for Petitioner

...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 06th MARCH, 2023

PER COURT :

1. Heard.
2. By this petition, petitioner impugns order dated 02/07/2021, passed by learned Civil Judge Junior Division, Jalgaon, below Exhibit-12 in R.C.S. No.108/2020. It is the application filed by third party under Order 1 Rule X(2) of the Code of Civil Procedure, for adding her in the suit. Plaintiff/present petitioner and defendant in the suit i.e. respondent No.2 herein opposed the said application on various grounds. Trial Court after considering rival submissions and on going through the record was pleased to allow the application and directed to add applicant therein as defendant No.2.
3. Learned advocate for petitioner assailed the impugned order stating that plaintiff is landlord and defendant/respondent

No.2 is the tenant. Applicant/Respondent No.1 has no concern with the suit property. Plaintiff and defendant have arrived at a compromise in the suit. However, due to incorporation of defendant No.2 i.e. respondent No.1 herein, serious prejudice is caused to the petitioner and the suit will be delayed.

4. Perusal of the impugned order shows that respondent No.1 i.e. applicant in the trial Court, has already filed suit in the Court of learned Civil Judge Junior Division, Jalgaon, bearing R.C.S. No.328/2018, wherein on 28/03/2019, interim injunction is granted against defendant i.e. respondent No.2 (her mother-in-law) and it is directed not to disturb possession of applicant/respondent No.1 on the suit property. Respondent No.1 has also filed shop act license wherein the said property is mentioned. Thus, the trial Court is of the view that *prima facie* respondent No.1 is having possession over the suit property, and considering that aspect and the fact that Court may allow party where that party's presence is required for effective disposal of the suit, so also, on the basis of documents placed on record, was pleased to allow the application.

5. No illegality or perversity is found in the present writ petition. Trial Court has rightly considered the fact that *prima facie* respondent No.1 appears to have possession over the suit property and has rightly passed the order. No case is made out by the

petitioner for exercising extraordinary writ jurisdiction. Writ petition is, therefore , dismissed.

(NITIN B. SURYAWANSHI, J.)