

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.13297 OF 2022**

VAIJINATH RATAN BOBADE
VERSUS
ASHOK SATYAPREM BOBADE AND OTHERS

...
Mr. Shivaji B. Bhapkar, Advocate for the Petitioner.
...

**CORAM : SHARMILA U. DESHMUKH, J.
DATED : 09th JANUARY, 2023.**

PER COURT:-

1. Heard the learned counsel for the petitioner.
2. The petitioner is aggrieved by the order dated 22.09.2022 passed in Regular Civil Suit No.396/2021 rejecting the application filed by the petitioner for being impleaded as party. Regular Civil Suit No.396/2021 has been instituted by respondent no.1 against respondent nos.2 and 3 for partition and separate possession of Gut No.267.
3. Learned counsel appearing for the petitioner submits that respondent no.2 had already filed Regular Civil Suit No.153/2015 against the present petitioner and three others in respect of the suit lands i.e. Gut Nos.267 and 228, which is pending and the petitioner has also filed Regular Civil Suit No.254/2011 in respect of the same Gut Nos.267 and 228, which also includes a prayer for setting aside a compromise decree of the year 2018. He would further urge that respondent no.1 without adding the present petitioner as party is now attempting to enter into a compromise decree with respondent nos.2 and 3, which will prejudice his rights.

4. I have considered the submissions raised by the learned counsel for the petitioner.

5. It is not in dispute that, the petitioner has been initiated a proceeding for asserting his right in respect of Gut Nos.267 and 228 in the year 2011 and there are no orders which had been passed in the said proceeding in respect of the suit property. As the compromise decree, if any, executed between respondent nos.1, 2 and 3 will not be binding upon the petitioner, it cannot be said that any right of the petitioner is bound to be prejudiced by the compromise decree.

6. Learned counsel for the petitioner would further submit that no prejudice will be caused to respondents, if the petitioner is impleaded as party.

7. Considering the the Regular Civil Suit No.153/2015 is at the stage of compromise, the impleadment of the petitioner is bound to hamper the compromise decree and as such, the submission of the petitioner that no prejudice will be caused cannot be countenanced. The Trial Court has rightly observed that no prejudice or harm will be caused to petitioner, as the proceeding already instituted by him is subjudice in which his claim can be adjudicated.

8. Considering the above, I am not inclined to interfere with the impugned order. Writ Petition is accordingly dismissed.

(SHARMILA U. DESHMUKH)
JUDGE