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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.13343 OF 2021

Kailas Vasant Patil

PETITIONER

VERSUS

Anita Pralhad Dhunure and Others

RESPONDENTS

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Mr. Anudeep D. Sonar, Advocate for the petitioner

Mr. Shrikant S. Patil, Advocate for respondent No.1

Mr. Umesh Mitkari h/f Mr. M. S. Kulkarni, Advocate for
respondents No.2 and 3

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 11th APRIL, 2023

ORDER :

1. The petitioner has assailed order dated 7th October, 2021 passed by learned Joint Civil Judge, Junior Division, Sakri, below Exhibit-13 in Regular Civil Suit No. 36 of 2020, thereby rejecting application filed by the petitioner seeking his impleadment in the suit.

2. Respondent No.1 has filed the suit against respondents No.2 and 3, seeking injunction that the defendants should not disturb peaceful possession of the plaintiff over the suit property and they should not take any step for demolition of the house built on the suit property.

3. The defendants appeared in the suit. Initially, "*No Written Say*" order was passed by the Trial Court against the defendants. The petitioner, being third party, filed application under Order 1, Rule 10 of the Civil Procedure Code seeking his impleadment as party defendant in the said suit, on the ground that at his instance the action was initiated by the defendants to remove encroachment of the plaintiff and since the defendants are not contesting the suit effectively and they are trying to help the plaintiff and, therefore, he may be added as party defendant in the suit so that he can bring true and correct facts before the Court. The said application is rejected by the Trial Court, hence the present writ petition.

4. Heard learned advocate for the petitioner and the learned advocates for respondent No.1 and respondents No.2 and 3. Perused the grounds raised in the petition, documents annexed along with the petition, affidavit in reply filed by respondent No.1 and the impugned order.

5. Admittedly, the suit can be decided in the absence of the petitioner. The plaintiff being *dominus litis*, has every right to array necessary and proper parties to the suit and in the present suit, the defendants are the only necessary parties. The

defendants have appeared and filed written statement and have opposed the suit.

6. There appears substance in the contention of respondent No.1 that the petitioner is his son in law and his daughter has filed various proceedings against the petitioner and with a view to give counter blast to the same and to pressurize the plaintiff, present application is filed.

7. The Trial Court has rightly held that the petitioner is not necessary or proper party in the suit and his presence would not have any bearing on the adjudication of the suit on merits. No illegality or perversity is found in the order impugned in the present writ petition. The writ petition being devoid of any merit is dismissed.

[NITIN B. SURYAWANSHI]
JUDGE