

WRIT PETITION NO.3403 OF 2023

Versus

Mr. Vilas Sawant, Advocate for the petitioner.

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DATE : 24th MARCH, 2023

ORDER :

2. The plaintiffs have filed suit for declaration of ownership of Survey No. 58/4, admeasuring 75 Are and mandatory injunction of possession of encroached portion against defendants No. 1 to 7.

3. The plaintiffs have relied upon the measurement conducted by the Deputy Superintendent of Land Records, prior to the filing of the suit.

4. The petitioners being third party filed application under Order 1 Rule 10 for their addition as defendants in the suit which is rejected by the Trial Court. Hence, the present petition.

5. Heard the learned advocate for the petitioners. Perused the grounds raised in the writ petition, annexures and the impugned order.

6. It appears from the record that the petitioners have no concern with Gut No. 58/4. The plaintiffs have not claimed any relief against the petitioners and it is a specific pleading of the plaintiffs that defendants No. 1 to 7 have encroached on the suit property. Considering the fact that the petitioners have no concern with the suit property and the plaintiffs being master of their suit have not claimed any relief against the petitioners, the Trial Court has rightly rejected the application filed by the petitioners. No fault can be found with the finding recorded by the Trial Court that the petitioners are not necessary or proper

parties and their presence is not necessary for adjudication of the suit. There is no illegality or perversity in the order impugned in the present petition. The writ petition being devoid of merit is dismissed.

7. The learned advocate for the petitioners submits that in the measurement map and report it has come that the present petitioners have encroached on some portion of the suit property. If this position comes on record during the course of evidence of City Survey Officer, the petitioners are at liberty to adopt appropriate legal proceeding.

[NITIN B. SURYAWANSHI, J.]