

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.8387 OF 2022

Sangram Maruti Chougule	 Petitioner
Vs.	
Grampanchayat Shiye thr. Its Gramvikas Adhikari and Anr.	 Respondents

WITH
WRIT PETITION NO.1867 OF 2023

Sumit Maruti Chougale	 Petitioner
Vs.	
Grampanchayat Shiye and Ors.	 Respondents

Mr. Nikhil N. Pawar for the Petitioner.
Mr. Datta H. Pawar for Respondents.

CORAM : SHARMILA U. DESHMUKH, J.

DATE : 11 JULY 2023.

P. C.

1. The petitions arise out of the order passed by the trial Court permitting impleadment of respondent No.2 under application filed under Order 1 Rule 10 of CPC. Suits in question came to be instituted by the petitioner-plaintiff for injunction restraining the Grampanchayat from obstructing the possession of the petitioners over the suit properties i.e. plot Nos.58 and 59. In these proceedings, applications came to be filed by respondent no.2

claiming to be project affected persons and allottees of plot No.58 and 59. The trial Court allowed the application giving rise to the present petition.

2. Heard Mr. Nikhil N. Pawar for the petitioners and Mr. Datta H. Pawar for Respondents.

3. Learned counsel appearing for the petitioners submit that the suit was simplicitor for injunction restricting the grampanchayat from taking any action against the shed which is constructed over the suit property. He would further submit that the suit property is situated on government land and he has filed an application for regularization of his structure which is pending. He would further submit that respondent No.2 seeking impleadment do not have right, title or interest in the suit properties and as such is not bound by the outcome of the proceedings.

4. *Per contra*, learned counsel appearing for the petitioner has pointed out as regards plot No.58 the respondent No.2 has paid certain amount. He would claim that application has

been made for allotment of plot Nos.58 and 59 and as such any order passed in the suit before the trial Court would affect his right, title and interest in the suit properties.

5. Considered the submissions.

6. The suits in question have been instituted by the petitioners simplicitor for injunction stating that grampanchayat respondent No.1 has threatened demolition of the suit structures in respect of which regularization application is pending. It is contended in the suit for injunction that it is grampanchayat who has threatened demolition of the suit structure and even if the suit is decreed the outcome will bind only the grampanchayat and not any third party claiming right in the suit properties. For an application to be allowed under the provisions of Order 1 Rule 10 of CPC, it is necessary for the applicants to prove that they have direct and substantial interest in the suit properties and are necessary and proper parties. The material which is produced on record indicates that rights of respondent No.2, who claimed to be project affected person, are not yet crystallized. There are no

allotment orders passed as regards the allotment of plot No.58 and 59 in favour of respondent No.2. The trial Court while permitting the impleadment has taken into consideration, applications which has been filed for allotment of the plots but failed to take into consideration the fact that the rights of respondent No.2 are yet to be crystallized in the form of allotment letters. The trial Court observed that whether third party applicant is having any right or interest in the suit property can be decided at the time of final adjudication. In my opinion, the trial Court erred in observing so, for the simple reason that the suit in question was simplicitor for injunction and if respondent No.2 were impleaded as third party, the same would expand the scope of the suit.

7. Considering the limited relief which is sought in the suits, the third parties without having any crystallized rights in their favour cannot be said to be necessary or proper party in the suit for injunction. The decree will bind only the parties to the suit and not third party applicants.

8. In view of the above, the impugned order passed by

the trial Court permitting impleadment of respondent No.2 as party to the proceedings is not sustainable and are hereby quashed and set aside.

9. The writ petitions stand allowed.

SHARMILA U. DESHMUKH, J.