

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

**WRIT PETITION NO.901/2023**

**Shri Sunil s/o Vinayak Daf**

**...Versus...**

**State of Maharashtra Through Collector, Wardha and others**

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Office Notes, Office Memoranda of Coram,  
appearances, Court's orders or directions  
and Registrar's orders  
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Court's or Judge's orders

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Shri D.R. Bhoyar, Advocate for petitioner  
Mrs. M.A. Barabde, AGP for respondent nos.1 and 2  
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**CORAM : AVINASH G. GHAROTE, J.**

**DATE : 08/02/2023**

1. Heard Shri D.R. Bhoyar, learned counsel for the petitioner. The petition challenges the order dated 25/11/2022, whereby the application under Order 1 Rule 10 of the Code of Civil Procedure for addition of respondent no.5 as the defendant no.5 to the suit, has been allowed.

2. Shri Bhoyar, learned counsel for the petitioner contends that the respondent no.5, was neither a proper or necessary party, as she has no concern with the litigation initiated by the petitioner, by way of Regular Civil Suit No.104/2022, which was for challenging the notice dated 05/05/2022, issued by the respondent no.3 directing removal of encroachment on public land by the petitioner.

3. It is not in dispute that the respondent no.5, is the immediate neighbour of the petitioner and had also initiated Writ Petition No.142/2022, whereby the encroachment by the

petitioner on the Government land was sought to be removed. The learned Division Bench of this Court vide order dated 01/03/2022 in Writ Petition No.142/2022 had directed that the Collector, Wardha will treat the petition as representation, consider the grievance and take appropriate action, as may be required, after following due procedure and it is in pursuance to this that the notice dated 05/05/2022 has been issued to the petitioner, considering which position, it is apparent that the respondent no.5 is a proper and necessary party to the suit filed by the petitioner, challenging the aforesaid notice dated 05/05/2022.

4. Though reliance is placed upon ***Mrs. Sulbha Devendra Kokate Vs. Mrs. Surekha Kokate and others, 2022 (1) ALL MR 152***, it does not consider a proposition, where the encroachment on Government land, at the behest of a neighbour, is sought to be removed. It is necessary to note that the respondent no.5 as a resident of a property immediately adjacent to the encroached land, has a right to ensure, that her civil rights are protected and the authorities act in an appropriate manner in their statutory function, for enforcement of the provisions. I therefore do not see any reason to interfere in the impugned order. The writ petition is dismissed. No order as to costs.