



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

WRIT PETITION NO. 1524 OF 2020

(HARIDAS NARAYAN PATIL & OTH..VS..SECRETARY, GRAM PANCHAYAT, SHEDESHWAR & OTH.)

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

Court's or Judge's orders

Shri H.N.Bhondge, Advocate for Petitioners.

CORAM : ANIL S. KILOR, J.
DATED : OCTOBER 17, 2023.

1. Heard.
2. The application moved by the respondent Nos. 3 to 5 for their addition as party to the suit filed by the petitioners for declaration and permanent injunction, came to be allowed vide order dated 29/01/2020 passed by the Civil Judge Junior Division, Umrer, the same is the subject matter of this writ petition.
3. The petitioners filed a suit for declaration that they are the owners of the Well in question and the defendants Gram Panchayat has no right to install any electric meter on the said Well. In the said suit the respondent Nos.3 to 5 filed an application for impleadment on the ground that the villagers are using the said Well and they are fetching the water from the said well and if the decree is passed in favour of the plaintiff, it would be adverse to the interest of the villagers. So the villagers i.e. respondent Nos. 3 to 5 sought impleadment in the suit. The learned trial Court, after considering the above referred fact, allowed the application.

4. The learned counsel for the petitioners submits that the respondent Nos.3 to 5 are neither necessary party nor proper party to the suit and therefore, the order passed by the trial Court allowing the application is erroneous.

5. He further submits that allowing the villagers to use the water from the Well in question does not give any right to them in the Well. He, accordingly, prays for quashing and setting aside the impugned order.

6. I have perused the record and the impugned order.

7. From the record, it is evident that in the written statement filed by the Gram Panchayat the Gram Panchayat has categorically denied the ownership of the plaintiff over the Well in question. Moreover, from the application moved by the respondent Nos. 3 to 5 for their impleadment, it is evident that it is the case of the respondent Nos.3 to 5 that the villages are using the water from the Well in question and if any decree is passed in favour of the plaintiff, the villagers will be deprived of using the water and in that case it will be adverse to their interest.

8. In the circumstances, I have no hesitation to hold that since the villagers have interest in the said Well as they are fetching water from it and hence, if any decree

is passed in favour of the plaintiffs, it will be against their interest and therefore, their presence in the suit is necessary.

9. In that view of the matter, I do not find any merit in the present writ petition for the reason that the trial Court has rightly considered the above factors.

10. Accordingly, the writ petition is **dismissed**. No order as to costs.

JUDGE

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