

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

Writ Petition (WP) No. 4483 of 2018

Sau. Kalpana Ashok Madawar
Versus
District Collector, Gadchiroli and another

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri N.D.Kamborkar, Advocate for the petitioner.
Shri H.D.Dubey, AGP for the respondent no.1/State.
Shri Badal Lonare, Advocate for the respondent no.2.

**CORAM : ANIL S. KILOR, J.
DATED : 7th JULY, 2023.**

In this writ petition, the order below Exhibit 68 dated 28th March, 2018 passed by the Civil Judge, Senior Division, Gadchiroli in Regular Civil Suit No. 35 of 2015 rejecting the application for addition of party under Order 1 Rule 10 and for amendment under Order 6 Rule 17 read with Section 151 of the Code of Civil Procedure (in short hereinafter referred as “CPC”), is under challenge.

2. The petitioner filed a suit for declaration and permanent injunction seeking declaration that the order passed by the Collector, Gadchiroli granting lease

to the defendant no.2, is illegal. During the pendency of the suit, the Collector cancelled the lease granted in favour of defendant no.2. Thereafter, the Sub Divisional Officer, Desaiganj granted occupancy right in favour of the defendant no.2 vide order dated 27th March, 2015. In view of the subsequent event, the petitioner applied for amendment of the suit along with application for addition of party under Order 1 Rule 10 of CPC, to Sub Divisional Officer, Desaiganj. Said application came to be rejected vide impugned order dated 28th March, 2018 the same is the subject matter in the present writ petition.

3. Admittedly, the suit was for declaration that the lease granted in favour of the defendant no.2 by the Collector, is illegal. Subsequently because of cancellation of the said lease, infact the prayer for declaration does not survive. Moreover, subsequent order granting occupancy right by the Sub Divisional Officer by issuing sanad, is the fresh cause of action and there is alternate remedy available to raise the grievance against the same before the Higher Revenue Authority under the provisions of Maharashtra Land Revenue Code, 1966.

4. In the circumstances, I am of the opinion that the learned trial Court has rightly rejected the

application for addition of party under Order 1 Rule 10 and for amendment under Order 6 Rule 17 read with Section 151 of the CPC. Hence, the petition is dismissed with liberty to the petitioner to file appropriate proceeding as permissible under the law challenging the order of Sub Divisional Officer, Desaiganj granting occupancy right in favour of the respondent no.2.

[ANIL S. KILOR, J.]