

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

Writ Petition No.8112/2019

(Bharatsingh V Manjurabi and others)

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Ms D.V. Sapkal, Adv for petitioner.
Ms PR. Arbat, Adv for resp. no.1.
Mr. T.S. Deshpande, Adv for resp. nos. 2 and 3.

CORAM : AVINASH G GHAROTE, J.
DATE : 03-03-2023

Heard Ms Sapkal, learned Counsel for the petitioner, Ms Arbat, learned Counsel for respondent no.1 and Mr. Deshpande, learned Counsel for respondent nos. 2 and 3.

2. The petition challenges the order dated 11-07-19, whereby the application of the petitioner to implead him as party defendant in RCS No.14/18 has been rejected. It is the contention of the petitioner that original survey no.6/2 was numbered as G.No.20, original survey no. 6/3 was numbered as G.No.24 and survey no. 6/3-A was numbered as G.No.25. The original owner of Survey No. 6/2 (G.No.20) were Shenfad Eknath Dawand and Sudhakar Dawand who have sold the property to Achyut Hade and Narayan Hade who was the father of the defendant no. 2. In the suit filed by the respondent no.1 against the

respondent nos. 2 and 3 on account of an order of status quo dated 25-01-18, when the same was sought to be executed by the police aid the respondent no.1, with the police aid entered into the land of G.Nos. 24 and 25 and took away the standing crops on the presumption it was G.No.20. This has clearly caused severe prejudice to the petitioner and therefore it is contended that the petitioner was proper and necessary party and because of the aforesaid misconception the property of the petitioner i.e. Gat Nos.24 and 25, is being adversely affected and the suit was being proceeded.

3. The application was opposed by Ms. Arbat, learned Counsel for respondent no.1 and Mr. Deshpande, learned Counsel for original respondent nos.2 and 3. Mr Deshpande, learned Counsel, relies upon judgment of the Hon'ble Apex Court in *Sudhamayee Pattnaik and others vs Bibhu Prasad Sahoo and others, (2022 SCC OnLine SC 1234)* and judgment of this Court in *Waman s/o Baburao Khente vs Smt. Mona @ Seema Patel and others* passed in Writ Petition No.4458/2017 decided on 02-02-2021 which speak about the principle of *dominus litis*, however in this case, since the right of the petitioner to valuable property and the crops standing thereupon are being adversely affected because of the aforesaid misconception, the petitioner would be not only a

proper party but a necessary party, so that the suit would be decided on a correct factual position, considering which, the impugned order is hereby quashed and set aside and application Exh-45 is allowed.

JUDGE