



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

903 WRIT PETITION NO. 6567 OF 2024

Prakash Mohanlal Kruplani

VERSUS

Haresh Rangalmal Agicha And Others

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Advocate for the Petitioner : Mr. Patil Sandesh R.

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CORAM : R. M. JOSHI, J.

Dated : July 02, 2024

PER COURT :-

1. This petition takes exception to order dated 06/09/2023, passed below Exhibit 37, in Regular Civil Suit No.90/2013 whereby application filed by the petitioner to intervene in the suit, to be joined as plaintiff, is rejected.

2. It is contention of the petitioner that he is resident nearby to the suit property, and therefore, he has interest in the outcome of the suit. It is alleged in the application that the defendants are trying to construct the Club Hall in open space, which is illegal. On this averments he sought himself to be joined as plaintiff. The application was opposed and was rejected by passing impugned order.

3. Learned Counsel for petitioner submits that the Trial Court committed error in not taking into consideration 7/12 extract filed on record which indicates that the petitioner is resident in the close vicinity, and therefore, he has interest in the suit. It is his further submission that in order to avoid multiplicity of proceedings, he ought to have been joined as plaintiff therein.

4. Perusal of the impugned order shows that the learned Trial Court has taken into consideration 7/12 extract placed on record by the petitioner/ intervenor. It is specifically observed in paragraph 11 of the order that the plaintiff is owner of different property than the suit property. It is thus, clear that the plaintiff has no right, title and interest in the suit property.

5. In order to join as a party to any suit, person is required to be a necessary or proper party as contemplated by Order I Rule 10 of the Code of Civil procedure. As far as petitioner is concerned, except for the averment that he is resident in the vicinity where the suit property is situated, there is absolutely nothing forthcoming to indicate that his presence is necessary for just decision of the suit. In absence of having made without any case of being necessary or proper party in the suit, his application could not have been allowed and is rightly rejected by the Trial Court. This Court finds no perversity in the order, hence petition stands dismissed.

(R. M. JOSHI, J.)

vj gawade/-.