



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

919 WRIT PETITION NO. 15370 OF 2023

1] VISHWANATH DEVIDAS KOKARE

2] KHANDU DEVIDAS KOKARE

VERSUS

SHAIKH AHMED HAKIM

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Advocate for the petitioners : Adv.K.A.Kadam

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CORAM : ARUN R. PEDNEKER, J.

DATE : 18.01.2024

P.C. :

1] The present petition is filed challenging the order passed by the Civil Judge rejecting the application of the petitioners seeking direction to join the Collector, Beed, Tahsildar, Ambajogai and three brothers of the respondent as party defendant in the suit, contending that they are necessary parties to the suit.

2] Perusal of the plaint indicates that the respondent has filed Regular Civil Suit No.34 of 2019 for perpetual injunction. As per the respondent, his father was allotted the plot No.23 in Old Survey No.136 in the year 1981, situated at village Nimgaon, Taluka Ambajogai, District Beed. It is the case of the plaintiff that after making plots of the land in Survey No.136, 81 plots are allotted to the people in the said village and possession of the 81 plots are given to the concerned person. The said land is gairan

land. The plot no.23 is allotted to the father of the respondent – plaintiff. After demise of his father, the present respondent become owner and possessor of the said plot. It is further alleged in the plaint that on 24.01.2019, the present petitioners demolished the tin shed from the said plot, therefore, the respondent – plaintiff filed suit for perpetual injunction against the petitioner. In the suit, the petitioners have filed application seeking impleadment of the Collector, Beed, Tahsildar, Ambajogai and three brothers of the petitioners as party defendant in the suit.

3] Response to the said application, the respondent has contended that he has filed simplicitor suit for perpetual injunction against the defendant and he has not claimed any relief against the State. It is further the case of the plaintiff – respondent that he had not filed suit for partition and that he is in possession of the suit property.

4] The application filed by the petitioners for joining the Collector, Beed, Tahsildar Ambajogai and three brothers of the respondent as defendant is rejected by the trial Court on the ground that the state authorities and the brother of the plaintiff are not necessary for adjudication of the suit and that issue involved in the suit can be decided without adding any of the above persons as party in the suit.

5] The learned counsel for the petitioner submits that since the record of the said plot is available with the Government, the Collector and Tahsildar are necessary parties in the suit filed by the plaintiff. The suit filed by the plaintiff is not maintainable without adding the Collector and Tahsildar as party in the suit.

6] As there is no relief claimed against the State and the suit is simplicitor for injunction against the defendant, it is not necessary to join the Collector and Tahsildar as party in the suit. Since the suit is filed for injunction on the basis of possession of the petitioner of suit land, the brother of the plaintiffs, who may also have title to the suit property are not necessary to the suit. As such, there is no error in the order passed by the trial Court, hence, the present Writ Petition is dismissed.

[ARUN R. PEDNEKER]
JUDGE

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