



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

939 WRIT PETITION NO. 13783 OF 2023

Vandana Keshav Jadhav & othersPetitioners

VERSUS

Dr Deepak Suvalal Gugale & anotherRespondents

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Mr. A. S. Kadam, Advocate for the Petitioners.

Mr. Anand Dale, Advocate holding for Mr. S. S. Rath, Advocate for
Respondent No. 1.

Mr. H. V. Patil, Advocate for Respondent No. 2.

CORAM : R. M. JOSHI, J.

DATE : 3rd JULY, 2024.

PER COURT :

1. By consent of learned counsel for both sides, heard
finally at admission stage.

2. Petitioners are intervenors in Regular Civil Suit No.
259/2019 and are aggrieved by rejection of application Exhibit 22
under Order 1 Rule 10 of Code of Civil Procedure to join them as
party Defendants to the suit.

3. The suit is filed by Plaintiffs raising objection to the
notice dated 06.05.2019 issued by Defendant-Municipal Corporation.

It is the contention of Petitioners/intervenors that against the encroachment caused by Plaintiffs, intervenors have lodged various complaints with the Corporation and as a result of which, notice impugned came to be issued. It is also submitted by learned counsel for Petitioners that the Petitioners had taken up the said issue of encroachment before the Corporation and also have filed writ petitions before this Court for removal of encroachment. It is thus his submission that the Petitioners are necessary and proper party to the suit.

4. The said contention is opposed by learned counsel for Respondents with a contention that unless the Petitioners are proper and necessary party, they cannot be joined as Defendant as claimed.

5. There cannot be any dispute made with regard to the fact that the notice in question came to be issued on complaint of Petitioners. The Court, however, is required to see as to whether appearance of Petitioners is necessary for effective decision of the suit. A query was made to that effect to learned counsel for the Petitioners. His response to the same was that once action is initiated

at the instance of the Petitioners, they become necessary party to the suit.

6. Petitioners are not authorities nor have any independent evidence to place before the Court which would affect the outcome of the suit. Once a notice has been issued by the Corporation under the provisions of law, it would be within the right of the Plaintiffs to challenge the same before the competent Court. Merely because a notice is challenged before the competent Court, the Petitioners who are complainants against the alleged encroachment, do not get right to join themselves as party Defendants.

7. In view of the aforestated facts as the presence of Petitioners is not going to affect the outcome of the suit or would not assist the Court in deciding the suit effectively, there was no reason or justification to allow the application for joining the as party Defendants. Hence, this Court finds no perversity in the impugned order. Petition is dismissed.

(R. M. JOSHI)
Judge