



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

935 WRIT PETITION NO. 12556 OF 2024

Subhash Narayan Pawar

....Petitioner

VERSUS

Sangram Pundlikrao Adhav & others

.....Respondents

.....

Mr. S. V. Suryawanshi, Advocate for the Petitioner.

CORAM : R. M. JOSHI, J.

DATE : 21st NOVEMBER, 2024.

PER COURT :

1. Heard.

2. Petitioner i.e. original Plaintiff in Regular Civil Suit no. 31/2024 takes exception to the order passed below Exhibit 14 whereby the learned Trial Court has allowed Respondent Nos. 2 to 7 to be joined s party Defendants to the suit.

3. It is the case of the Petitioner that he had filed said suit for seeking injunction against Defendant No. 1 only and as such Respondent Nos. 2 to 7 are not necessary party to this suit. Learned counsel for the Petitioner places reliance on judgment of this Court in case of Ramesh s/o Shama Kumbhar and another vs. Sudhakar s/o

Budha Kumbhar and others, **2013(3) ALL MR 196** wherein it is held that if the suit is for simplicitor injunction the order passed would bind only the parties to the suit and the proposed party who is not party to the suit would not be bound by any such order. It is his submission that following this judgment, the order passed by the Trial Court deserves to be set aside.

3. Perusal of the judgment cited supra indicates that the only issue before this Court was as to whether the decree passed in the suit of injunction would bind the parties to the suit and no one else. On this premise, this Court has held that the person who is not party defendant and against whom injunction is not sought is not a necessary party. As against this, perusal of the plaint indicates that the Petitioner herein claims himself to be the owner of the suit property which is undisputedly ancestral property. Though it is his contention that there was already partition effected, and statement is made as to how he has derived the title in respect of the suit property, the application filed by Respondent Nos. 2 to 7 clearly indicates that they also claim right, title and interest therein.

4. Having regard to the fact that there is claim of these Respondents in the suit property, though no injunction is sought against them, they are property party. Their presence in the suit would be of assistance to the learned Trial Court to decide the issues involved therein. Having regard to the aforestated facts, there is no merit in the petition. Petition is dismissed.

(R. M. JOSHI)
Judge

dyb