



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

906 WRIT PETITION NO. 14301 OF 2023

**SHRI SUMNESHWARI MATA PRATISTHAN THROUGH ITS DEVOTEE
MAHANT PADMANABH UDAYGIRI**

VERSUS

PRASAD MALIKARJUN SWAMI AND OTHERS

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Advocate for the Petitioner : Mr. Tripathi Manish Purushottam

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CORAM : ARUN R. PEDNEKER, J.

DATE : 08th FEBRUARY, 2024

PER COURT:

1. Heard.
2. The learned counsel for the petitioner submits that on the property card the name of the petitioner is shown as the owner of the property. Notwithstanding the same, the collusive suit is filed by the plaintiff against the defendant so as to grab the property of the present petitioner.
3. In a suit filed for injunction against the third party, the petitioner herein had filed application to the effect that injunction cannot be granted in the matter, as the suit property belongs to the petitioner and that it is a collusive suit so as to grab the petitioner's property. However, the trial court has refused to entertain the application on the

ground that there is no provision in the CPC to file such application and also on the ground that the plaintiff has not followed the procedure enumerated under CPC. The learned counsel submits that the application ought to have been treated as under Order 1 Rule 10 for impleadment as defendant in the matter. Since the application is not filed in such manner, the trial court has not considered the same. However, liberty is granted in the impugned order that in the even the objector has any grievance relating to the present suit he has to follow the procedure enumerated in the CPC in order to contest the present suit.

4. Since, the liberty is granted to the petitioner in terms of the impugned order, he may avail the remedy as mentioned in the impugned order. In view of the liberty granted in the order of the learned Civil Judge, Senior Division, Sailu, District Parbhani, the petitioner can approach the same court by applying under the provisions of the CPC for appropriate relief. No interference is called for in the impugned order.

5. The writ petition stands disposed of accordingly.

[ARUN R. PEDNEKER, J.]