



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 3003 OF 2018

1. Shweta Kamal Bhojwani,
Aged about 34 years
2. Sunita Vimal Bhojwani,
Aged about 33 years
Both R/o Gurunanak Ward, Sindhi
Colony, Bhandara

...Petitioners

// VERSUS //

1. Mahadeo Mithuji Bangadkar
Aged about 64 years, Occ. Business
R/o : Rajendra Ward, Bhandara
2. Naresh B. Kaurani,
Aged about 42 years, Occ. Business
C/o Roshan Bhiyaji Gaydhene,
Shivaji Nagar, Mouda, Dist. Nagpur-
441104.

... Respondents

Shri Anjan De, Advocate for the petitioners.
Shri Nitin R. Bhishikar, Advocate for the respondents.
Shri K.S.Motaoni, Advocate for the respondents.

CORAM : ANIL S. KILOR, J.
DATED : 15th APRIL, 2024.

ORAL JUDGMENT :

Rule. Rule made returnable forthwith. Heard finally by
consent of the parties.

2. The order dated 26th September, 2017 passed by the learned
Civil Judge, Senior Division, Bhandara in Special Civil Suit No. 16 of

2015, thereby allowing the application under Order I Rule 10 of the Code of Civil Procedure, 1908 moved by the plaintiff to join the petitioners as party, is under challenge in this writ petition.

3. Admittedly, the suit is for recovery of Rs.10,00,000/- filed against the respondent no.2. In the said suit prayer clause (2) relates with the grant of injunction in respect of plot no.512, to the effect that the plaintiff be restraint from creating third party interest. However, the record shows that even prior to filing of the suit, the petitioner purchased the said plot from the defendant. Hence, on the date of filing of the suit the defendant was not the owner of the said plot.

4. Thus, in a suit for recovery of Rs.10,00,000/- from the defendant, the petitioners cannot be said to be a necessary party or a proper party for any reasons and therefore allowing the application moved by the plaintiffs/respondents is erroneous and it is liable to be quashed and set aside. Accordingly, I pass the following order.

- i. The writ petition is allowed;
- ii. The Order Below Exhibit 32 dated 26th September, 2017 passed by the learned Civil Judge, Senior Division, Bhandara in Special Civil Suit No. 16 of 2015 is hereby quashed and set aside.

[ANIL S. KILOR, J.]