



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 27 OF 2024

VISHWAS S/O SHRIKRISHNA KALE

Vrs.

ARVIND S/O KISAN WANKHADE AND OTHERS

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri C. A. Babrekar, Advocate for petitioner.
Shri N. S. Rao, A. G. P. for respondent Nos.2 and 3.

CORAM: ANIL S. KILOR, J.

DATE : 04/01/2024.

1. The Judgment and order dated 23/06/2023 passed by District Judge, Amravati in M.C.A. No.97/2022 upholding the order dated 05/11/2022 passed below Exh. 20 in Regular Civil Suit No.511/2022, allowing the application filed by the defendant No.1 for return of plaint by invoking the provisions of Order VII Rule 10 of the Code of Civil Procedure and thereby, defendant Nos.2 and 3 struck out being party to the suit and returned the plaint so as to present it in the Court of Civil Judge Junior Division, Dhamangaon, Dist. Amravati.

2. Admittedly, the suit filed by the petitioner / plaintiff is for recovery of damages and there is no prayer seeking any relief against defendant Nos.2 and 3.

3. The pleadings made in the plaint that "the plaintiff reported his grievance regarding disturbance to

the eastern boundary of field of the plaintiff on 24/06/2022 to defendant No.2, the Tahsildar, Dhamangaon Railway for urgently restraining the act of the defendant No.1 and for other necessary action" do not make the defendant Nos.2 and 3 as necessary party or proper party.

4. In the circumstances, I do not find any error committed by both the Courts below. Hence, I pass the following order :-

ORDER

5. Accordingly, the writ petition is dismissed.

[ANIL S. KILOR, J.]