



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

**WRIT PETITION NO. 3751 OF 2022**

**SAMBHAJI MADHAVRAO KAPSE AND OTHERS  
VERSUS  
KALIDAS SADASHIV NAVGIRE AND OTHERS**

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Advocate for the Petitioners : Mr. Salunke Sudarshan J  
AGP for Respondents/State : Mr. R. D. Raut  
Advocate for Respondent Nos.1 and 2 to 4 : Mr. Deshmukh Prashant K.

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**CORAM : ROHIT W. JOSHI, J.  
DATE : 26<sup>th</sup> AUGUST 2025**

**PER COURT :**

1. The Petitioners who are the residents of Village Sindhpal, Taluka Tuljapur, District Osmanabad, had made a complaint to the Respondent No.6-Tahasildar, stating that the Respondent Nos. 1 to 4 had created some obstruction on a public road. The Tahasildar directed a panchnama to be carried out based on the complaint filed by the Petitioners.

2. The Respondent Nos. 1 to 4 have filed a suit bearing Regular Civil Suit No.342/2021, *inter alia* claiming a decree for permanent injunction, restraining them from causing any obstruction to peaceful possession of the Respondent Nos. 1 to 4 (Plaintiffs) over their respective lands, through which the alleged road passes. The present Petitioners filed an application under Order 1 Rule 10 of the

Civil Procedure Code for addition of their names as Defendants in the said suit.

3. The learned trial Court has rejected the said application vide order dated 30.10.2021 on the ground that since order as contemplated under Section 143 of the Maharashtra Land Revenue Code 1966 was not passed with respect to the said road, the Petitioners cannot be said to be aggrieved persons and therefore they will not have any locus standi to move application under Order 1 Rule 10 in the said suit. The premise on which the application is rejected is untenable. The Petitioners' claim that there was a road existing over which some encroachment is made by the Respondent Nos. 1 to 4 (Plaintiffs). The Petitioners, therefore, moved application for addition for their names as Defendants in the suit. The application is required to be heard and decided afresh. In view of the fact that it is rejected on untenable premise, the order dated 30.10.2021 passed by the learned 4<sup>th</sup> Joint Civil Judge, Senior Division, Osmanabad on application at Exhibit-13 in the Regular Civil Suit No.342/2021 is quashed and set aside with direction to the learned trial Court to decide the said application afresh.

4. It is clarified that this Court has not made any observation as regards merits of the matter. Since 46 persons have filed application for addition of party under Order 1 Rule 10, the learned trial Court may consider adding some of them only as Defendants to the suit in representative capacity to represent the interest of all the

Defendants. However in the event, such a course is to be adopted the learned trial Court shall consider the provisions of Order 1 Rule 8 of the Civil Procedure Code.

5. Writ Petition is disposed of in the above terms.

**ROHIT W. JOSHI**  
**JUDGE**

*NATJEEB..*