



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

946 WRIT PETITION NO. 5137 OF 2025

ABDUL RAHEMAN RANNU CHOUDHRI GAWLI AND OTHERS
VERSUS
HASAN BIRAM GAWLI AND OTHERS

...
Advocate for the Petitioners : Mr. Siddiqui Sohel E.
Advocate for Respondents 1 to 7 : Mrs. Ashwini A. Lomte
Advocate for Respondents 8 to 17 : Mr. T.A. Syed
...

CORAM : ARUN R. PEDNEKER, J.

Dated : November 12, 2025

PER COURT :-

1. Heard the learned counsel for the petitioners and the learned counsel appearing for respondents.
2. In R.C.S. No. 281/2024 filed in the court of Jt. Civil Judge, J.D. at Ambajogai, present petitioners are intervenors, present respondent Nos. 1 to 7 are the original plaintiffs and respondent Nos. 8 to 17 are the original defendants. The suit is filed for declaration and perpetual injunction. The subject matter of the civil suit is old City Survey No. 734/1, (New Survey Nos. 36/17 and 36/18) of village Kuranwadi, Taluka Ambajogai, admeasuring 2 H. 2 R. land.
3. In the suit, the present petitioners filed application under Order 1, Rule 10 of C.P.C. and prayed to implead them as defendants in the above suit. The application filed by the petitioners is rejected by the Trial Court vide order dated 27.2.2025. As such, the present writ petition is filed, challenging the impugned order.
4. The learned counsel for the petitioners submits that the trial Court has rejected the application of the petitioners by wrongly observing that if

the petitioners are not adversely affected or if they have any grievance against the parties in the suit, they can file independent suit. The Trial Court has also observed that the injunction is claimed against the defendants and no relief is claimed against the petitioners. The learned counsel for the petitioners submits that if the petitioners are relegated to file separate suit, then they would have to apply for collecting all the documents/evidence for filing the same in the new suit and that would give rise to multiplicity of litigation. The learned counsel submits that four boundaries mentioned in the suit are not in existence and only two sides of four boundaries are mentioned in the suit and they are affecting their portion of lands. The learned counsel has placed reliance on the judgments in the cases of **Yogesh Goyanka Vs. Govind and Anr.** reported in **(2024) 7 SCC 524** and **Acqua Borewell Pvt. Ltd. Vs. Swayam Prabha**, reported in **LAWS (SC)-2021-11-29**. The learned counsel therefore prayed that they may be impleaded in the suit as defendants.

5. Per contra, the learned counsel for the respondents/plaintiffs particularly points out that there was prior suit filed for partition and separate possession by the three brothers against the father of the present petitioners. The said suit was decreed. Prior to the decree, there was application to declare that sale deed is bad in law. The plaintiffs have purchased the land in the year 1974 by executing the sale deed which has been considered in R.C.S. No. 563/1981. The learned counsel submits that based on this sale deed, decree has been executed. The learned counsel submits that the respondents/plaintiffs have no cause of action against the petitioners and as such, the petitioners are not necessary parties to the suit. The trial court has rightly dismissed the application.

6. Considering the rival submissions and record produced before me, it is apparent that trial court has particularly noted that there was suit for partition in which share of Ramju and his three brothers were carved out and the plaintiffs are the purchaser of the suit property from Ramju in the year 1974 and as far as successors, other brothers are concerned they have no right as far as property purchased by the plaintiffs is concerned in the year 1974. The plaintiffs have filed suit against present respondent Nos. 8 to 17 as it is alleged that they are interfering with the possession of the plaintiffs.

7. The judgment relied upon particularly in the case of **Yogesh Goyanka** cited supra at para 9 and 10 deals with the question of impleadment of a transferee pendente lite of the suit property. As far as judgment in the case of **Acqua Borewell Pvt. Ltd.** cited supra is concerned, the suit relates to partition and separate possession and in that suit the claim of the plaintiff therein was that plaintiffs were entitled for 1/4th share and they sought injunction against the defendants from creating any third party right. The Hon'ble Supreme Court quashed the injunction order against the third parties as injunction was granted without making them party to the proceeding. As such, both the judgments relied upon by the learned counsel for the petitioners are of no assistance to the petitioners. The Trial Court has rightly observed that the decree, if any, passed against the defendants would not be binding upon the petitioners and the decree would be executable only against present respondent Nos. 8 to 17. The petitioner is *dominus litis*. In the event the petitioners have any independent cause of action, they can file separate suit and that the petitioners cannot be impleaded as party in the proceedings. As such, no

case is made out to interfere in the impugned order. The writ petition is accordingly dismissed.

(ARUN R. PEDNEKER, J.)

ssc/