



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7183 OF 2025

Ashok Madhavrao Baraskar

VERSUS

Anand Murlidhar Rokade And Others

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Advocate for Petitioner : Mr. N.C. Garud

AGP for Respondents: Mr. S.P. Joshi

CORAM : S. G. CHAPALGAONKAR, J.

Dated : June 19, 2025

PER COURT :-

1. Petitioner impugns the order dated 21.3.2025 passed by the learned Civil Judge S.D., Ahmednagar, below Exhibit-267 in Special Civil Suit No.54 of 2002, by which prayer of petitioner for impleading him as party respondent has been rejected.

2. It appears that respondent nos.1 and 2 filed a suit seeking decree of partition and separate possession in respect of the suit properties. It is contention of petitioner that defendants in that suit namely Ashok Madhavrao Baraskar and Jayashri Prakash Gaikwad have executed an agreement with him dated 2.8.2001 for the purpose of demarcating and dealing with the property and agreed to pay him commission @ 20% for services. Accordingly, petitioner sought his

impleadment as party in the suit. The learned Trial Court, after considering the rival submissions, observed that presence of petitioner would not be necessary for effective adjudication of the dispute. Petitioner has no right in suit property. Agreement dated 2.8.2001 does not create any right or interest in favour of petitioner. Eventually, rejected prayer for impleadment.

3. On perusal of the stipulations in plaint, it can be observed that it is a suit seeking decree of partition and separate possession in respect of the agriculture properties, wherein coparceners are made party. Admittedly, petitioner is not family member or assignee of coparcener. He is third party and wish to assert his right on the basis of agreement dated 2.8.2001, which hardly entitles him to raise claim over suit property.

4. Mr. Garud, learned advocate appearing for petitioner places his reliance on observations of this Court in case of **Devchand Constructions Vs. Board of Trustees of the Port of Mormugao and another**, particularly, in paragraph no.13 and submits that sub-rule (2) or Rule 10 of Order 1 of Civil Procedure Code enables the Court to add any person as a

party at any stage of the proceedings if the person whose presence before the Court is necessary in order to enable the Court to effectively and completely adjudicate upon and settle all the questions involved in the suit. Avoidance of a multiplicity of proceedings is also one of the objects of the said provision in the Code.

5. However, in present case, petitioner could not bring to the notice of this Court that he has a substantive right in the suit property and decree in the partition suit cannot be passed in his absence. Although, Mr. Garud contends that avoidance of multiplicity of litigation is also one of the objects of the said provision in the Code, from the facts of present case, it is not discernible that non-addition of the petitioner would create multiplicity of the litigation. Considering nature of claim and prayers in the suit coupled with reasons as adopted by Trial Court in impugned order, there is no substance in this writ petition. Hence, writ petition stands **dismissed**. No costs.

(S. G. CHAPALGAONKAR, J.)

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aaa/-