



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11699 OF 2022

Kerba Vishwnath Belge

VERSUS

Sushma Nandkumar Dudhewar And Others

- Mr. S. S. Gangakhedkar, Advocate for the Petitioner
- Mr. S. B. Bhapkar, Advocate for the Respondent No. 1

CORAM : R. M. JOSHI, J

DATE : MARCH 20, 2025

PER COURT :

1. This Petition takes exception to the order dated 15.10.2022 passed below Exh. 115 in RCS No. 14/2018 whereby application filed by the Petitioner to add him as party Defendant came to be dismissed.

2. Learned Counsel for Petitioner submits that since the relief is sought against the Petitioner and also in respect of that the property which is apparently held by him, he is necessary party in the suit. In order to substantiate the said contention, he has drawn attention of the Court to the plaint more particularly clause D of the plaint which reads thus:

D) Issue of perpetual injunction restraining the defendants No. 5,6,7 and 8 from disbursing compensation to the

defendant No. 1 to 4 on acquisition of land Gut No. 151 to the extent of an area 0.0956 mistakenly persisting in the name of Gulab s/o Pandurang Deshmukh in revenue record and an area 0.1185 out of Gut No. 151 persisting in the name of defendant No. 2 and 4 with Kashiba and Kerbas 0.1060 R. out of Gut no. 151 persisting in the name of defendant No. 3 Sundar S/o. Pandurang Kalyankar as per the notification issued and published by Ministry of Road Transport and High Ways U/sec. 3 (G) of National Highways Act,

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It is his contention that once a relief is sought in respect of the property of the Petitioner, he becomes necessary party in the suit.

3. This contention is opposed by the learned Counsel Respondent/Original Plaintiff by drawing attention of the Court to the correspondence executed by Petitioner indicating that Petitioner has given a statement to that effect he has no right in respect of property in order to he stakes any claim in the compensation. Thus, it is his contention that this amounts to estoppel.

4. The issue as to whether the previous statement

of the Petitioner of estoppel or otherwise, is the subject matter to be decided by the Court below in RCS No. 14/2018. Suffice it to say that once there is relief asked, as reproduced herein above, indicates that injunction is sought in respect of the property belonging to the Petitioner, he becomes necessary party. Though the Respondent has sought to dispute about the ownership of the Petitioner over the said property, *prima facie* there is evidence to indicate that his name appears in 7/12 extract and there is sale deed in favour of the Petitioner dated 18.02.1980 in respect of portion from gut no. 151.

5. As a result of above, impugned order cannot sustain. Hence, impugned order is set aside. Application Exh. 115 stands allowed. Trial Court to decide the suit further in accordance with law.

(R. M. JOSHI, J.)