



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

WRIT PETITION NO. 15317 OF 2023

**KAUSABAI RAMA JADHAV
VERSUS
AJINATH KACHARU DHAKANE AND OTHERS**

...
Mr. Garud N.C., Advocate for the Petitioner
....

**CORAM : S. G. CHAPALGAONKAR, J.
DATE : 31.07.2025**

PER COURT :-

1. Heard Mr. N. C. Garud, learned Advocate appearing for petitioner.
2. The petitioner/plaintiff impugns order dated 03.05.2023 passed by learned Civil Judge Junior Division, Pathardi below Exhibit-31 in R.C.S. No.316 of 2021, by which application filed by petitioner under Order I Rule 10 of Code of Civil Procedure has been rejected.
3. The respondents herein filed R.C.S. No.316 of 2021 seeking declaration of ownership in respect of land survey No.98/3/A/1 admeasuring 0.17.50 R and further prayed for appointment of Court Commissioner to demarcate boundaries of land through Deputy Superintendent of Land Records.
4. The present petitioner filed application below Exhibit-31

contending that he is adjacent landowner of suit property, therefore, he is necessary party in present suit.

5. The learned Trial Court rejected said application observing that petitioner is unconcerned with suit property and his presence is not necessary for effective adjudication of suit.

6. Mr. N. C. Garud, learned Advocate appearing for petitioner submits that there are multiple proceedings pending between the parties. He invites attention of this Court to pleading in R.C.S. No.81 of 2022 filed by respondents, wherein petitioner is added as defendant. Mr. Garud further submits that petitioner is adjacent landowner of suit property and in case measurement is directed for fixation of boundaries, petitioner's presence would be necessary. Therefore, he urges that intervention/ addition ought to have been allowed.

7. Mr. Garud relies upon observations of this Court in case of ***Omprakash S/o Ramnarayan Khurana Vs. Parvatibai W/o Mahadeo Khandalkar reported in 2016 (1) Mh.L.J. 848***, in support of his contentions.

8. Having considered submissions advanced, it can be observed that suit property in R.C.S. No.316 of 2021 is land survey No.98/3/A/1

admeasuring 0.17.50 R. The plaintiff therein seeks declaration of ownership and fixation of boundaries of suit land through Deputy Superintendent of Land Records. Consequently, he seeks relief that in case encroachment is found, decree of possession be granted.

9. Apparently, plaintiff is seeking relief against defendants who are already added as party in suit. Plaintiff is not complaining or alleging anything against petitioner, nor he wants any relief against him. Prima facie consideration of pleadings in the plaint and reliefs claimed nowhere suggests that petitioner's presence is necessary for adjudication of suit. In case, during measurement of land, it is found that land of petitioner is likely to be affected, in that case it would be necessary on the part of respondents to add petitioner as party in suit. However, at present, there is no such occasion. Although other suits are pending between the parties that itself would not give right to petitioner to get himself impleaded as defendant in present suit.

10. Although Mr. Garud relies upon observations of this Court in case of ***Omprakash Vs. Parvatibai*** (*supra*), said observations, in fact, supports impugned order. It stipulates that when it appears to the Court to direct addition of any party who may be necessary and proper or whose presence may be considered essential to enable Court to completely and

effectively adjudicate upon real controversy involved in suit, Court may order addition of such party to avoid multiplicity of litigation. However, in present case, there is nothing on record to show that addition of petitioner is necessary either to grant relief as claimed in plaint or to avoid multiplicity of litigation.

11. In that view of the matter, this Court does not find any jurisdictional error requiring interference under Article 227 of Constitution of India.

12. In result, writ petition stands **rejected**.

[S. G. CHAPALGAONKAR, J.]

HRJadhav