

VRJ

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.3891 OF 2024

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Hanumant Bhimrao Linge

... Petitioner

V/s.

Keshav Vithoba Linge

... Respondent

Mr. Balkrushna G. Patil i/by Mr. Jayendra Khairnar for
the petitioner.

CORAM : S. G. CHAPALGAONKAR, J.

DATED : NOVEMBER 14, 2025

P.C.:

1. Present writ petition takes exception to order dated 7th November 2023 passed below Exhibit 45 by learned Civil Judge, Junior Division, Pandharpur in Regular Civil Suit No. 11 of 2022, whereby application filed by the petitioner under Order VI Rule 17 of Civil Procedure Code, 1908 has been rejected.

2. Respondent–plaintiff instituted Regular Civil Suit No. 11 of 2022 seeking a decree of perpetual injunction against the petitioner–defendant in respect of Block Nos. 135 and 136 situated at Village Bhalwani, Taluka Pandharpur, District Solapur.

3. Respondent has specifically pleaded that he is cultivating both lands. The land of defendant is adjacent to land Block Nos. 135. The defendant, who owns land in Gat No. 133, has destroyed western side of bandh and is trying to encroach upon property of plaintiff. Petitioner refuted the claim of plaintiff by filing a written statement. Petitioner then filed an application under Order VI Rule 17 of the Civil Procedure Code, 1908 for striking off pleadings in respect of paragraph No. 1A, i.e., Block No. 135. It is the contention of petitioner that dispute in the suit is only in respect of bandh between land Gat Nos. 135 and 133, and he do not own land on the boundary of Block No. 136.

4. Learned Trial Court, after considering the submissions advanced, observed that plaintiff has claimed relief of perpetual injunction in respect of both lands cultivated by him. It is for the plaintiff to prove obstruction at the hands of defendant in both lands. Therefore, merely because petitioner owns land in Block No.133, which is adjacent to Block No.135, it cannot be said that the plaintiff cannot seek relief of injunction in respect of land in Block No.136.

5. Order VI Rule 16 of Civil Procedure Code, 1908, gives

discretion to Court to strike out any matter in any pleading which is unnecessary, tends to prejudice, or is in the nature of abuse of process of the Court.

6. Although petitioner is trying to contend that the reference to land Block No.136 is unnecessary, such contention cannot be accepted as the plaintiff filed suit with an apprehension of disturbance to his possession by defendant in both lands, which are made part of suit claim.

7. In that view of the matter, learned Trial Court has rightly refused to exercise jurisdiction under Order VI Rule 16 of Civil Procedure Code, 1908.

8. Hence, writ petition sans merit and is dismissed accordingly.

9. Pending interlocutory application(s), if any, stand disposed of.

(S. G. CHAPALGAONKAR, J.)