

Jvs.

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

WRIT PETITION NO. 10074 OF 2024

Balkishan Govindrao Konda & Ors.	}	Petitioners
versus		
Rajshree Mahadeo Pandhare & Anr.	}	Respondents

Mr. Prasad P. Kulkarni with Mr. Amol Kanaki, Mr. Nakul Shukla for petitioners.

Mr. Nilesh Wable for respondent no. 1.

Mr. Hrishikesh S. Shinde for respondent no. 2.

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CORAM: ALOK ARADHE, C. J.

DATE: JULY 9, 2025

ORAL ORDER:

1. In this petition under Article 227 of the Constitution of India, the petitioners have assailed the validity of the order dated 18th April 2024 passed by the Trial Court, by which, application preferred by the petitioners under Order I Rule 10 of the Code of Civil Procedure Code, 1908 (CPC) has been rejected.

2. Facts giving rise to filing of the writ petition, in nutshell, are that a suit has been filed by respondent no. 1 against respondent no. 2 seeking the reliefs of partition, possession and injunction. In the aforesaid suit, respondent no. 1 claims 50% of the share of the suit property. Respondent no. 2 is the brother of respondent no. 1. Respondent no. 2 has entered into an agreement with the petitioners, who are developer.

3. The petitioners filed an application under Order I Rule 10 of CPC for his impleadment. The Trial Court rejected the application under Order I Rule 10 of CPC on the ground that the petitioners are neither necessary nor proper parties in the suit for partition between two brothers.

4. I have heard learned counsel for the parties at length.

5. The view taken by the Trial Court is a plausible view. In case the civil suit is decreed, the petitioners have their remedies at the time of preparation of the final decree. In a suit for partition, the petitioners, who are not members of the family, are neither necessary nor proper parties. The issue with regard to addition of a party is one of the discretions and not of jurisdiction. The discretion to deal with the prayer of addition of parties has been exercised on the sound principles of law.

6. The impugned order does not suffer from any jurisdictional infirmity warranting exercise of jurisdiction under Article 227 of the Constitution of India.

7. In the result, the writ petition fails, which is hereby dismissed.

(CHIEF JUSTICE)