

AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.13219 OF 2024

Digitally
signed by
ATUL
GANESH
KULKARNI
Date:
2025.01.22
16:00:18
+0530

Tukaram Dnyanu Kadam

... Petitioner

V/s.

Raju Ganpatrao More & Ors.

... Respondents

Mr. P.D. Dalvi for the petitioner.

Mr. Nagesh Y. Chavan for respondent Nos.1 and 2.

CORAM : AMIT BORKAR, J.

DATED : JANUARY 22, 2025

P.C.:

1. The petitioner/original plaintiff filed an application under Order I Rule 10 of the Code of Civil Procedure, 1908, seeking to implead the District Rehabilitation Officer, Sangli, as a party-defendant to the suit. In the said suit, the petitioner has prayed for a declaration to be declared as the owner of the suit property and an injunction restraining the defendants from disturbing the petitioner's possession over the said property. The petitioner's claim of ownership is based on an allotment made by the District Rehabilitation Officer, Sangli. Therefore, according to the petitioner, the presence of the District Rehabilitation Officer is essential for an effective adjudication of the issues involved in the suit, as the Officer's role is directly linked to the basis of the petitioner's title

2. Learned Advocate for the respondents vehemently opposed the application, contending that the District Rehabilitation Officer is neither a necessary nor a proper party to the suit. It was argued that the Officer's role in the allotment process does not warrant their inclusion as a party to the suit, as the reliefs sought are directed against the defendants and pertain to ownership and possession of the property.

3. Order I Rule 10(2) of the Code of Civil Procedure, 1908, empowers the Court to add any person as a party to the suit if their presence is necessary for effectively and completely adjudicating the issues involved in the matter. Considering the petitioner's basis of right, which is the allotment of the suit property by the District Rehabilitation Officer, in my opinion, the Officer is a proper party. Their presence is required to determine the validity of the allotment and the petitioner's title, thereby enabling a complete and effective adjudication of the dispute. The principle laid down by the Supreme Court in **Mumbai International Airport Pvt. Ltd. v. Regency Convention Centre & Hotels Pvt. Ltd., (2010) 7 SCC 417**, highlights that a proper party is one whose presence facilitates the Court in determining the real controversy between the parties. In this case, the role of the District Rehabilitation Officer is pivotal to the petitioner's claim of ownership.

4. The Trial Court, therefore, ought to have exercised its discretion judiciously by allowing the plaintiff, being dominus litis, to add the District Rehabilitation Officer, Sangli, as a party-defendant to the suit. The plaintiff's discretion to determine the

scope of the parties, when exercised in good faith and without causing prejudice to other parties, is generally upheld by the Courts, as emphasized in **Kasturi v. Iyyamperumal, (2005) 6 SCC 733**.

5. Hence, to the extent of allowing the District Rehabilitation Officer, Sangli, to be added as a party-defendant to the suit, the writ petition stands allowed.

6. The petitioner shall carry out the necessary amendment to the plaint within three weeks from today by adding the District Rehabilitation Officer, Sangli, as a party-defendant to the suit.

7. No costs.

(AMIT BORKAR, J.)