

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3271 OF 2025

Shivaji Baburao Borhade

..Petitioner

Versus

Kondiba Raghunath Aalhar Since Decd Through
His Legal Heirs & Ors

...Respondents

Mr. Ashok B. Tajane, with Yogesh G. Thorat and Sachin Kharbade, for
the Petitioner.

CORAM: N. J. JAMADAR, J.

DATED : 7th MAY 2025

P.C.:

- 1.** Heard the learned Counsel for the Petitioner.
- 2.** The challenge in this Petition is to an Order dated 4th January 2024 passed by the learned Civil Judge, Junior Division, Pimpri, whereby an Application preferred by the Respondent No. 5 ("Exhibit 32") for impleadment as a party-Defendant to the Suit being RCS No. 247 of 2021, came to be allowed.
- 3.** The trial Court has in terms recorded that the third party was impleaded as party-Defendant to the earlier Suit instituted by the Plaintiff as well as in the proceeding before the Revenue Authorities.
- 4.** Mr. Tajane, the learned Counsel for the Petitioner submitted that the cause of action in both the Suits is different. Therefore, the third

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party is neither a necessary nor a proper party in the instant Suit. Mr. Tajane placed reliance on the decisions in the cases of **Sudhamayee Patnaik & Ors Vs Bibhu Prasad Sahoo and Ors¹** and **Mumbai International Airport Private Limited Vs Regency Convention Centre and Hotels Private Limited & Ors.²**

5. I have perused the averments in the previous Suits, i.e., RCS No. 80 of 2018 as well as the averments in the Plaint in the instant Suit, i.e., RCS No. 247 of 2021. The foundational premise of the Plaintiff's claim is the acquisition of title over the Suit property by his grandfather under two registered Sale Deeds, i.e., Sale Dee Nos. 383 of 1945 and 384 of 1945, dated 4th May 1945.

6. The Respondent No.5 was impleaded in the previous Suit which was initially filed for declaration and injunction and subsequently the prayer for declaration was deleted. In the instant Suit, the Plaintiff is seeking declaration regarding the legality and validity of the said Sale Deed Nos. 383 of 1945 and 384 of 1945. Evidently, the Respondent No.5 has an interest in the subject matter of the Suit in view of the impleadment of the Respondent in the previous proceeding.

7. The learned Civil Judge has thus correctly exercised the discretion to implead Respondent No.5 as party-Defendant to the Suit.

1 (2022) 17 SCC 286.

2 (2010) 7 SCC 417.

The endeavour of the Plaintiff appeared to be to obtain orders behind the back of the Respondent No.5.

- 8.** Therefore, no interference is warranted in the impugned order.
- 9.** Petition dismissed.

[N. J. JAMADAR, J.]