



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 3055 OF 2024

Narayan Ramgopal Panjabi,
Aged about 64 years,
Occ.- Agriculture and Business,
R/o. Sangam Chowk, Buldana,
Tah. and District Buldana.

.... **PETITIONER**

// **VERSUS** //

- 1) **Anil S/o Mishrilal Golechha,**
Aged about 57 years,
Occ.- Agriculture and Business,
R/o. Tilak Nagar, Sillod,
Tahsil Sillod, District Aurangabad.
- 2) **Praful Amrchand Ostwal,**
Aged about 35 years,
Occ.- Agriculture and Business,
R/o. Tilak Nagar, Sillod,
Tahsil Sillod, District Aurangabad.
- 3) **Yogesh S/o Kashiram Batra,**
Aged about 48 years,
Occ.- Agriculture and Business,
R/o. Shah Bazar, Burhanpur,
Tahsil and District Burhanpur,
Madhya Pradesh – 440 331.
- 4) **Smt. Premvatibai Bhojraj Panjabi,**
Aged about 72 years, Occ.-Household.
- 5) **Anil Bhojraj Panjabi,**
Aged about 55 years, Occ.- Business,
- 6) **Sunil Bhojraj Panjabi (Dead)**
through his Legal Representative :

- 6-A) **Sneha D/o Sunil Panjabi**,
Aged about 23 years,
R/o. Wankhede Layout, Buldhana,
Tahsil and District Buldhana.
- 7) **Rajesh Bhojraj Panjabi**,
Aged about 52 years, Occ.-Business,
- 8) **Bhushan Bhojraj Panjabi**,
Aged about 45 years, Occ.-Business,
- Nos.4 to 7 R/o. Wankhede Layout,
Buldana, Tahsil and District Buldana.
- 9) **Sou. Kamlesh Yogesh @ Sonu Batra**,
Aged about 48 years, Occ.-Household,
R/o. Shah Bazar, Burhanpur,
Tahsil and District Burhanpur,
Madhya Pradesh – 450 331.

.... **RESPONDENTS**

Mr. Sachin S. Deshpande, Advocate for the Petitioner.
Mr. Atharva S. Manohar, Advocate for the Respondent
Nos. 1, 2, 4, 5, 6-A, 7 and 8.

CORAM : SMT. M.S. JAWALKAR, J.
DATE : 08th MAY, 2025.

ORAL JUDGMENT :

1. **RULE.** Rule made returnable forthwith. Heard finally with the consent of the learned Counsel appearing for the parties.
2. Present Petition is filed challenging the order dated 16.04.2024, passed Below Exhibit-144 in Special Civil Suit No.45/2019, passed by 2nd Joint Civil Judge, Junior Division,

Buldhana. The said Application Exhibit-144 is filed by the plaintiff under Order 1 Rule 10(2) of the Civil Procedure Code, 1908 (for short the “CPC”), seeking permission to add the Sub Divisional Officer, Buldhana as party defendant No.10.

3. The plaintiff has filed a Special Civil Suit No.45/2019 for declaration that sale deed dated 16.11.2019, executed by Respondent No.3 in collusion with Respondent No.4 to 9 in favour of Respondent No.1 and 2 is null and void and for cancellation of sale deed and for possession. He also amended the plaint challenging the order passed by Sub Divisional Officer, Buldhana dated 21.02.2022 in Revenue Case No.34/Sagwan/21/2020-21. This order came to be passed during pendency of the suit. In view of this challenge, the additional issues were framed with regard to the legality of order dated 21.02.2022 passed the Sub Divisional Officer, Buldhana and issue to the effect that whether it is binding on the plaintiff. Learned Counsel for the plaintiff moved an Application Exhibit-144 on 02.04.2024. It is contended that as the additional issues pertains to legality of the order passed by Sub Divisional Officer, the same cannot be decided in absence of the said authority.

4. Learned Counsel for Respondents submitted that Sub Divisional Officer is not at all necessary party. Even if, the learned Counsel for the Respondents wants to add him as a party, the “Government of Maharashtra” required to be added as party.

5. On perusal of Application Exhibit-144, it appears that the application is made to add the Sub Divisional Officer as party defendant No.10 only on the ground that unless he is not made a party, the decision cannot be taken in respect of additional issues. However, there is no contention that the said order of Sub Divisional Officer dated 21.02.2022 is passed in collusion with defendants. Even if, it is the case of the Petitioner that though the order shown as passed on 21.02.2022, it was passed subsequently. However, there is nothing on record to show that to establish or demonstrate that the said order was passed subsequently and shown the date as 21.02.2022. Even if, learned Counsel for the Petitioner to add the Sub Divisional Officer on the ground of collusion, fraud etc. The Sub Divisional Officer in person is required to be added as a defendant.

6. It is settled position of law that when there is an allegation of fraud and or collusion, those will require to be

meeted out by the person himself. The learned Trial Court considered the Order 1 Rule 10(2) of the CPC and came to the conclusion that the Sub Divisional Officer is not at all necessary party. It is also observed by learned Trial Court that the Application for temporary injunction at Exhibit-41, wherein injunction was sought only against the defendant Nos.1 to 9 and not against the proposed defendant/Sub Divisional Officer, Buldhana.

7. Thus, *prima facie* it appears that on day of passing of the order by the learned Sub Divisional Officer i.e. on 21.02.2022, the injunction order was not in existence which came to be passed on 05.03.2022 in M.C.A. No.8/2022. As such, there is no merit in the writ petition. The order passed by the learned 2nd Joint Civil Judge, Junior Division, Buldana is well reasoned order, therefore, no interference is warranted in the same.

8. Accordingly, the Writ Petition stands **dismissed**.

9. This Court has already made the Special Civil Suit No.45/2019 time-bound and directed to decide the same within a period of four months vide its order dated 11.10.2023. In view

thereof, the learned 2nd Joint Civil Judge, Junior Division, Buldana is directed to decide the Special Civil Suit No.45/2019, as expeditiously as possible.

The Writ Petition stands disposed of in the above terms. No order as to costs.

(SMT. M.S. JAWALKAR, J.)

Kirtak