



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.23 OF 2024

NEMRAJ S/O BAPURAO WANJEKAR

--- .Vs. ---

ARUN S/O NATTHUJI BARAHATE AND OTHERS

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. S.A. Chaudhari, Advocate for Petitioner.

Mr. A.D. Ramteke, Advocate for Respondent No.3.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATED : 09th SEPTEMBER 2025

1. Heard learned Advocate for the petitioner and learned Advocate for respondent No.3. Though respondent Nos.1 and 2 are served, nobody appeared on their behalf.

2. The petitioner has challenged the order dated 16.08.2023, passed by learned 5th Joint Civil Judge Senior Division, Nagpur, rejecting the plaintiff's application under Order I Rule 10 of Civil Procedure Code, 1908 (for shot, "CPC"), for addition of parties as proposed defendants in S.C.S. No.799 of 2018.

3. Learned Advocate for the petitioner submits that the petitioner is the original plaintiff, who had filed a suit for specific performance of contract and for permanent injunction. In the written statement filed by respondent No.1/defendant, it was

revealed that the suit property was sold by defendant No.1 to other persons and therefore, the application for addition of subsequent purchasers as party defendants was filed under Order I Rule 10 of CPC. The proposed defendants are the persons who are claiming to have title of the suit property and they are required to be added as party defendants since they are necessary parties. It is submitted that the impugned order is passed by wrongly observing that there is no explanation in the application by ignoring the vital aspect that the plaintiff is the *dominus litis* and is entitled to join the persons who are necessary parties.

4. Learned Advocate for respondent No.3 strongly opposes the petition. He submits that the proposed defendants were not parties to the agreement and no relief is claimed against them in the suit. He also submits that the application for addition of parties under Order I Rule 10 of CPC is submitted belatedly, even after the fact of sale was disclosed in the written statement.

5. Learned Advocate for the petitioner places reliance on the judgment of the Hon'ble Supreme Court in the case of ***Robin Ramjibhai Patel Vs. Anandibai Rama @ Rajaram Pawar and Ors. [Arising out of SLP (C) No.31087 of 2014, Decided on November 10, 2016]*** and submits that the position of law is settled that in a

suit for specific performance of contract, the subsequent purchasers need to be added as a party, being a necessary party.

6. Having regard to the factual and legal aspects and the position of law as laid down in the above mentioned case of the Hon'ble Supreme Court, I am of the firm view that the proposed defendants were required to be joined as party defendants to the suit. The application filed by the petitioner/plaintiff, under Order I Rule 10 of CPC, before the learned Trial Court, for addition of parties deserves to be allowed. Hence, following order is passed.

ORDER

- I) The Writ Petition stands allowed.
- II) Impugned order dated 16.08.2023, passed by learned 5th Joint Civil Judge Senior Division, Nagpur, in S.C.S. No.799 of 2018, at Exhibit 18, is hereby quashed and set-aside.
- III) The application filed by the petitioner/plaintiff at Exhibit 18 in S.C.S. No.799 of 2018, is allowed.
- IV) No order as to costs.

(PRAFULLA S. KHUBALKAR, J.)