



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

WRIT PETITION NO. 4639 OF 2025

Sagar Kishor Admane, Aged about 32 years, Occ. Business,
R/o Borgaon Juni Basti, Nagpur – 440 013.

PETITIONER

VERSUS

1. Mamta Siddharth Bodale, aged about 72 years, Occ:
Household, presently R/o 87, Sim Palace, Shastri
Layout, Khamla, Nagpur.
2. Usha Pradeep Kamble, aged about major, Occ. Household
affairs, R/o Bhagwan Nagar, behind Post Office,
Banerjee Layout, Nagpur.
3. Shashank Pradeep Kamble, aged about major, Occ.
Household affairs, R/o Bhagwan Nagar, behind Post
Office, Banerjee Layout, Nagpur.
4. Shubham Pradeep Kamble, aged about major, Occ.
Household affairs, R/o Bhagwan Nagar, behind Post
Office, Banerjee Layout, Nagpur.
5. Mangaldas Sadashiv Kamble, aged about 68 years,
Occ. Retired, presently R/o Durga Nagar,
Manewada, Nagpur-440 015.
6. Fazalat Unnisa Abdul Mujid. (Deleted)
7. Abdul Najibkhan Abdul Muji Khan. (Deleted)
8. Magaswargiya Rail Karmachari Gruha Nirman
Co-operative Society, Nagpur. (Deleted)

RESPONDENTS

Shri B.C. Pal, counsel for the petitioner.
Shri S.Y. Rawate, counsel for the respondent no.1.
Shri B.C. Chandrapure, counsel for the respondent no.5.
None for the respondent nos.2 to 4, though served.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : DECEMBER 03, 2025

ORAL JUDGMENT

RULE. Rule is made returnable forthwith and heard finally with consent of the learned counsel for the parties.

2. The petitioner has challenged the order dated 27.09.2023 passed by the trial Court rejecting the application under Order I Rule 10 of the Code of Civil Procedure, 1908 (for short, 'the Code').

3. The learned counsel for the petitioner submitted that the petitioner had filed an application for intervention at Exhibit 151 for joining him as party defendant in the suit filed by the respondent no.1 seeking declaration and perpetual injunction with respect to a plot of land. He submitted that the petitioner had purchased the said plot of land during pendency of the suit on 12.01.2012 and thus is interested in the outcome of the suit which would directly affect his ownership rights. He submitted that the petitioner is therefore a necessary party who ought to have been joined as a party defendant to the suit. He submitted that ignoring the purport of the provisions of Order I Rule 10 of the Code the trial Court has rejected the application by only relying on Section 52 of the Transfer of Property Act, 1882. He specifically submitted that the plaintiff in the suit has given no objection for joining him as party defendant and by ignoring the same, the impugned order came to be passed.

4. Shri S.Y. Rawate, Advocate appears for the respondent no.1-plaintiff and submitted that the plaintiff has already given no objection for joining the petitioner as party defendant and thus continued with the same stand.

5. Shri B.C. Chandrakapure, learned counsel appearing for the respondent no.5 opposed the petition and submitted that the presence of the petitioner is not necessary for deciding the controversy involved in the suit and thus justified the impugned order. He submitted that the petitioner has purchased the suit property during pendency of the suit and will be bound by the effect of Section 52 of the Transfer of Property Act, 1882 and need not be joined as party defendant.

6. While considering the controversy, it has to be seen that undisputedly the petitioner has purchased the suit property during pendency of the suit. Further, the original plaintiff has not objected for joining him as party defendant and has given his say on the application at Exhibit 151 stating that the application for intervention may be allowed. As such, it is clear that the petitioner is the owner of the suit property and the decision of the suit will definitely have bearing upon the petitioner's ownership rights. Although the petitioner having purchased the property during pendency of the suit is bound by the effect of Section 52 of the Transfer of Property Act, 1882, however, depriving the petitioner from participating in the proceedings of the suit is not at all warranted, rather it will cause prejudice to the rights of the petitioner.

7. The position of law is laid down by the Hon'ble Supreme Court in its recent judgment in M/s ***J.N. Real Estate Versus Shailendra Pradhan & Others*** [2025 LiveLaw (SC) 519] holding thereby that a subsequent purchaser would be a necessary party in the suit for specific performance of contract since his rights would be affected irrespective of whether he had purchased the property with or without notice of the contract. In view of this position of law, I am of the firm opinion that the petitioner is entitled to be joined as party defendant to the suit. The impugned order passed by the trial Court by only referring to Section 52 of the Transfer of Property Act, 1882 needs to be interfered.

8. Having regard to the factual and legal aspects involved in the case, the writ petition is allowed. The order dated 27.09.2023 passed by the Court of 2nd Joint Civil Judge (Junior Division), Nagpur below Exhibit 151 in Regular Civil Suit No.903 of 2001 is quashed and set aside. The application filed by the petitioner-proposed defendant in Regular Civil Suit No.903 of 2001 at Exhibit 151 is allowed. Rule is made absolute in aforesaid terms with no order as to costs.

(PRAFULLA S. KHUBALKAR, J.)

APTE