



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**WRIT PETITION NO. 3006 OF 2024**

DILIP CHUDAMAN PATIL  
VERSUS  
VISHWAS CHUDAMAN PATIL AND OTHERS

...  
Mr. Girish S. Rane, Advocate for the Petitioner.

Mr. Bhushan B. Kulkarni, Advocate for Respondent Nos.1, 2 and 6.

...  
**CORAM : S. G. CHAPALGAONKAR, J.  
DATED : 07<sup>th</sup> JANUARY, 2026.**

**P.C.:-**

1. The petitioner impugns order dated 31.01.2024 passed below Exhibit-44 by Civil Judge Junior Division, Chopda in Regular Civil Suit No.56/2013, whereby application filed by respondent no.6/third party seeking impleadment in suit for partition and separate possession is allowed.

2. The petitioner instituted suit for partition and separate possession before Civil Judge Junior Division at Chopda. The defendant no.1 is father of respondent no.6, who sought his impleadment in suit. It is contention of defendant no.1 that portion of suit property is his self-acquired property and, therefore, same is not available for partition. It appears that, defendant no.1 has created some right in favour of respondent no.6/son by way of partition and accordingly, mutation entry was effected.

3. On the basis of aforesaid mutation entry, respondent no.6 claims his right in suit property and on that count sought

impleadment in suit. The Trial Court allowed application and directed addition of respondent no.6 as party in suit.

4. Mr. Girish Rane, learned Advocate appearing for petitioner would submit that respondent no.6 cannot claim independent right in suit property as long as defendant no.1/father of respondent no.6 is litigating in suit and endeavours to establish his independent right in suit property against claim of plaintiff. The Mutation Entry No.1038 is of no consequence to seek impleadment in suit.

5. Per contra, Mr. Bhushan Kulkarni, learned Advocate appearing for respondent no.6 supports impugned order. He would submit that in view of mutation entry, some semblance of right has been created in favour of respondent no.6. Therefore, his impleadment is necessary. The view taken by Trial Court is in tune with scheme of Order I Rule 10(2) of Code of Civil Procedure.

6. Having considered submissions advanced by learned Advocates appearing for respective parties, it can be observed that present suit is essentially filed for partition and separate possession. The dispute in suit is between plaintiffs and defendant no.1, particularly in respect of 22 R land, which according to defendant no.1 is purchased out of his own funds. The respondent no.6 seeks impleadment in suit and claims right in suit property on the basis of partition effected by defendant no.1. Apparently,

respondent no.6 cannot have independent right in suit. His right would be dependent upon claim of defendant no.1 over suit property. The defendant no.1 is contesting suit, being party. Therefore, his son i.e. respondent no.6 cannot claim any independent right for impleadment as party.

7. In that view of matter, Trial Court appears to have committed jurisdictional error while allowing application for impleadment on behalf of respondent no.6.

8. In result, Writ Petition succeeds and allowed in terms of prayer Clauses (A) and (B).

**(S. G. CHAPALGAONKAR)**  
**JUDGE**