



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

964 WRIT PETITION NO.4920 OF 2025

Rajesh Manohar Sungewar

VERSUS

1. Yogesh Manohar Sangewar And
2. Harshavardhan s/o Gangadhar Ponala

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Advocate for Petitioner : Mr. G.G. Kadam

Advocate for Respondent no.1 : Mr. A.R. Nikam

Respondent no.2- Served.

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CORAM : S. G. CHAPALGAONKAR, J.

Dated : April 28, 2026

FINAL ORDER :-

1. Present writ petition takes exception to the order dated 27.03.2025 passed by the learned Civil Judge, Junior Division, Nanded, below Exhibit-42 in Regular Civil Suit No.159 of 2024, whereby petitioner's application for impleadment as a party came to be rejected.

2. Respondent No.1/(original plaintiff) instituted Regular Civil Suit No.159 of 2024 seeking declaration that the partnership between late Manohar Nagnath Sangewar and defendant in respect of CL-III License No.190 for running country liquor business stands dissolved and rendition of accounts of partnership. Plaintiff has further sought relief of

perpetual injunction against defendant from running bar business under liquor license or initiating procedure for renewal of the license.

3. The petitioner, who is the brother of plaintiff, filed an application for impleadment as a party in the suit. It is contention of petitioner that late Manohar Sangewar was holder of CL-III license. Plaintiff obtained probate on the basis of a manipulated will after of death of father in respect of said license. Petitioner has moved for revocation of the probate so also sought intervention in the suit. Trial Court declined to entertain petitioner's prayer, observing that, *prima facie*, plaintiff is given right in respect of CL-III license under the will executed by late Manohar. The reliefs claimed in the suit are on the basis of such rights against partner of the firm, who is running liquor shop and petitioner has no right to seek impleadment, particularly, when those reliefs are not claimed against him or his presence is not required for effective adjudication of the dispute between parties.

4. Mr. Kadam, learned advocate appearing for petitioner, submits that petitioner and Respondent No.1 are real brothers. CL-III license was standing in the name of their father. After

demise of father, plaintiff manipulated the will and obtained probate behind back of the petitioner. The reliefs claimed in suit are in respect of CL-III license of their father. Petitioner has already initiated proceeding for revocation of the probate. Any decision in the suit would directly or indirectly affect petitioner's right. Trial Court ought to have allowed impleadment of the petitioner so as to make substantial justice between parties.

5. Per contra, Mr. Nikam, learned advocate appearing for respondent no.1 submits that plaintiff has not claimed any relief against petitioner. Plaintiff filed suit for his own right claiming reliefs against defendants. The decree that would be passed in suit, neither affect right of petitioner nor his presence in suit is necessary for effective adjudication of the dispute. Plaintiff has independently instituted proceeding for revocation of the probate. However, as on today, probate stands in the name of plaintiff. Trial Court has rightly applied principles of law governing exercise of power under Order I Rule 10 of the Civil Procedure Code.

6. Mr. Nikam, in support of his submissions, relies upon observations of Hon'ble Supreme Court of India in case of

Sudhamayee Patnaik and others Vs. Bibhu Prasad Sahoo and others reported in **2022 AIR SC 430**, **Parag Prakash Mutha Vs. Kashinath Barku Bhalsingh and others** reported in **2023 AIR CC 2956** and **Nak Engineering Company Pvt Ltd., Vs. Tarun Keshrichand Shah and others** reported in **2026 DGLS (SC) 4**.

7. Having considered submissions advanced by learned advocates appearing for respective parties and after perusal of the record tendered into service, it can be observed that petitioner and respondent No.1 are real brothers. Respondent No.1 has instituted Regular Civil Suit No.159 of 2024 claiming that his father Manohar had executed registered will in his favour and bequeathed rights in CL-III license No.190 with country liquor business in his favour. On the basis of such averments, he claims relief against partner of the country liquor business. Petitioner claims that a fraudulent will has been used for obtaining probate behind back of the petitioner. Petitioner has already moved for revocation of probate. Any relief granted in the suit would directly and indirectly affect petitioner's right over CL-III license being legal heir of original licensee Late Manohar Sangewar. The Trial Court appears to have refused to entertain petitioner's prayer for impleadment

as party observing that as per terms of partnership-deed, a representative of deceased partner can be added as partner in the liquor business. Respondent No.1 is the representative of original partner Manohar on the basis of will and probate. Therefore, respondent No.1 has filed suit in his own right against defendant/partner of the liquor business.

8. Apparently, petitioner has already filed Miscellaneous Civil Application No.540 of 2023 for revocation of probate on the ground of fraud. Respondent-plaintiff has filed suit claiming his exclusive right over CL-III license on the basis of will. Careful analysis of prayers in the suit would depict that petitioners want declaration as to dissolution of partnership firm and consequential injunction against defendant/partners. Respondent has also sought relief of rendition of accounts of partnership firm. If the aforesaid reliefs are granted in the suit, petitioner's right in respect of CL-III license that was owned by his father would certainly be prejudiced. It is true that presently respondent/plaintiff possess probate in his hand, however, fact remains that rights of respondent under will or probate are still subject matter of the litigation in parallel proceeding. In this backdrop, although, petitioner may not

claim himself to be necessary party, but he is certainly a proper party and his presence before Court in the suit would assist Court to effectively adjudicate the dispute and avoid multiplicity of the litigation. In this circumstance, although there cannot be dispute as to proposition of law espoused in the citations relied upon by Mr. Nikam, this Court finds that in the factual backdrop of this case, exposition of law in those judgments would not be an impediment for permitting impleadment of the petitioner as party in suit.

9. In result, Writ Petition stands **allowed** in terms of prayer clause 'C' and disposed of.

(S. G. CHAPALGAONKAR)
Judge.

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