



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

WRIT PETITION NO.986 OF 2026

YOGESH SAHEBRAO JADHAV AND OTHERS
VERSUS
SK KHALILULLAH SK BARKATULLAH AND OTHERS

...
Mr. Vivek V. Tarde, Advocate for the Petitioners.

...
CORAM : S. G. CHAPALGAONKAR, J.
DATED : 30th JANUARY, 2026.

FINAL ORDER:-

1. The present Writ Petition takes exception to order dated 18.12.2025 passed below Exhibit-21 by Civil Judge Senior Division, Aurangabad in Special Civil suit No.149/2021, whereby application filed by petitioners to implead MHADA as defendant in suit has been rejected.

2. The petitioners are original defendants in Special Civil Suit No.149/2021. The respondents/plaintiffs instituted suit for relief of recovery of possession of 81 sq. mtrs. plot/open space against petitioners/defendants. It is contention of plaintiffs that defendants have encroached upon plot CTS No.20719 situated at Kokanwadi, Aurangabad. It is contention of plaintiffs that in pursuance to compromise decree of partition, open plot admeasuring 14265 sq. mtrs. came to their share. The defendants, who are adjacent land holders from CTS No.20721/1 have caused encroachment on area owned by plaintiffs.

3. The petitioners/defendants refuted claim by filing written statement. They denied plaintiffs' contentions regarding encroachment.

4. In this background, petitioners filed an application under Order I Rule 10(2) of Code of Civil Procedure below Exhibit-21 to implead MHADA as defendant in suit, as property in their possession was originally allotted by MHADA to their vendor.

5. The Trial Court declined to entertain application observing that MHADA is unconcerned with dispute in suit, therefore, defendants' application need not be entertained. Apparently, respondents/plaintiffs are seeking possession of encroached area, which is unauthorizely possessed by petitioners/defendants. The MHADA would neither necessary nor proper party. If petitioners wants to contend that they derived title and possession from MHADA, it is always open for them to substantiate claim by filing necessary documents and/or if found necessary examine authorized officer from MHADA as witness in trial of suit. However, looking to nature of relief claimed in suit and controversy between parties, impleadment of MHADA as defendant is not necessary. The Trial Court has rightly declined to exercise powers in terms of Order I Rule 10(2) of Code of Civil Procedure.

6. Hence, no case is made out to cause interference in impugned order under Article 227 of Constitution of India. In result, Writ Petition stands dismissed.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/January-2026