



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

WRIT PETITION NO. 3561 OF 2026

MAROTI KONDIBA BHISE

VERSUS

DATTATRYA LAXMAN SOMEWAD AND OTHERS

...

Mr. Pavan P. Uttarwar, Advocate for the Petitioner.

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CORAM : S. G. CHAPALGAONKAR, J.

DATED : 07th APRIL, 2026.

P.C.:-

1. The petitioner raises challenge to order dated 24.09.2025 passed below Exhibit-31 by Civil Judge Junior Division, Himayatnagar in Regular Civil Suit No.20/2019, whereby petitioner's application seeking impleadment in suit under Order I Rule 10(2) of Code of Civil Procedure has been rejected.

2. The respondent no.1 instituted suit for partition and separate possession of suit property against respondent nos.2 and 3. The petitioner, who is third party filed application under Order I Rule 10 of Code of Civil Procedure seeking his impleadment as defendant no.3 in suit. It was contention of petitioner that land which are subject matter of suit i.e. Gut Nos.137 and 147 were under cultivation of his father. The Government declared him as protected tenant and possession was handed over to him. As such, he has semblance of right in suit property. The Trial Court declined to entertain petitioner's application observing that claim of petitioner regarding his right in suit property is not supported

by documentary evidence. Although petitioner has pleaded that his father was declared protected tenant, no document in support of this contention has been placed on record, nor is there any material to demonstrate that either petitioner or his father was ever in possession of suit property.

3. Mr. Uttarwar, learned Advocate appearing for petitioner endeavours to contend that petitioner has already filed independent suit for grant of decree of perpetual injunction against respondents. The suit property in his suit and present suit is one and same and, therefore, impleadment of petitioner ought to have been allowed. However, right of party seeking impleadment in pending suit is governed by provisions of Order I Rule 10 of Code of Civil Procedure. The person whose presence before Court is necessary in order to enable Court to effectually and completely adjudicate upon and settle all questions involved in suit can be said to be necessary party.

4. Apparently, present suit is filed for partition and separate possession between plaintiff and defendants. The petitioner is trying to set up his tenancy right alleging that his father was declared as protected tenant and he was continuously in possession of suit property. However, this statement in application is not supported by any iota of evidence. Apparently, petitioner failed to demonstrate semblance of his right in suit property. The Trial

Court has rightly refused to exercise jurisdiction under Order I Rule 10 of Code of Civil Procedure.

5. In aforesaid backdrop, this Court do not find any reason to interfere in impugned order in exercise of Writ jurisdiction. Hence, Writ Petition stands dismissed.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/April-2026