



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

WRIT PETITION NO. 6120 OF 2025

1. Sushil Kishor Dipani, Aged 35 years, Occ: Pvt.Work.
2. Laxmi Kishor Dipani, Aged 65 years, Occ: Household.

Both R/o Plot No.8-A, 3rd Floor, Near Punjab National Bank,
Nayaghar Housing Society, Indora Chowk, Dr.Ambedkar
Marg, Nagpur – 440 017.

PETITIONERS

VERSUS

1. Poonam Wasudev Kukreja (Rajkumari Wadhmal Dipani), Aged 70 years, Occ: Household, C/o R/o Manish Ramchandra Dipani, Plot No.36, Kalpataru Colony, Kamptee, Tah.Kamptee, District Nagpur.
2. Anita Subhash Dipani, Aged 55 years, Occ: Pvt.Work.
3. Vicky Subhash Dipani, Aged 35 years, Occ: Business.

Nos.2 & 3 R/o Raibahadur Oli, Kamptee, Tahsil Kamptee,
District – Nagpur.

RESPONDENTS

Shri C.F. Bhagwani, counsel for the petitioners.
Shri N.R. Tekade, counsel for the respondent no.1.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : FEBRUARY 02, 2026

ORAL JUDGMENT

RULE. Rule made returnable forthwith. Heard finally with consent of the learned counsel for the parties.

2. The petitioners assail the order dated 10.09.2025 passed by the trial Court rejecting the application for intervention in the suit filed by the respondent no.1.

3. In Special Civil Suit No.449 of 2017 filed by the respondent no.1 seeking declaration, eviction, possession, permanent mandatory injunction and recovery of damages with respect to the suit property, the petitioners filed an application at Exhibit 80 for intervention claiming themselves to

be the co-owners of the suit property and prayed for their impleadment in the suit. The application came to be rejected mainly by considering the fact that an earlier application for joining the intervenors as party defendants filed at the instance of the defendants in the suit was rejected and the said order has attained finality. Further, the trial Court has observed that considering the nature of the suit and the pleadings of the plaintiff, the intervenors are not the necessary parties in the suit.

4. The learned counsel for the petitioners submitted that the suit is with respect to the ancestral property which is also owned by the petitioners and the plaintiff's case being based on the document of Will dated 17.05.1991, the controversy about ownership of the plaintiff cannot be agitated without allowing the petitioners/co-owners of the property to be joined as parties to the suit. He also submitted that considering the nature of the controversy involved, even the defendants had earlier applied for joining the intervenors as party defendants but, the said application was rejected. He submits that although the said order was not challenged by the defendants, the intervenors are entitled to file separate application demonstrating their right to participate in the proceedings and their application cannot be rejected only on the ground that the defendants' application was rejected. By inviting the Court's attention to the issues framed in the suit, he submits that the controversy about the exclusive ownership of the plaintiff based on the said Will cannot be allowed to be adjudicated without participation of the intervenors.

5. Opposing the petition, the learned counsel for the respondent no.1-original plaintiff submitted that the suit being a suit for eviction, only necessary parties have been joined and since the earlier application filed by the defendants was rejected, the subsequent application filed by the petitioners deserved to be rejected.

6. While considering the rival contentions, it has to be seen that the suit is filed for declaration, eviction, possession and permanent mandatory injunction. The intervenors claim to be co-owners of the suit property which is their ancestral property. A perusal of the issues framed in the suit reveals that Issue No.1 is 'Does the plaintiff prove that, she is exclusive owner of the suit property by virtue of Will-deed dated 17-05-1991?'. In view of this issue, it has to be noted that the plaintiff has claimed herself to be the exclusive owner of the suit property which is claimed to be the ancestral property of several persons including the intervenors. In view of this Issue, I find force in the contentions of the petitioners/intervenors. Although the application filed by defendants for joining the intervenors as party defendants was rejected, it cannot be concluded that the intervenors, who are claiming co-ownership over the suit property, are not the necessary parties in the said suit. A perusal of the impugned order shows that the trial Court has only focused on the pleadings of the parties in the suit, whereas a perusal of the issues framed, clearly shows that the decision on Issue No.1 would result into multiplicity of proceedings in case the suit is decided in absence of intervenors. Hence, I am of the considered opinion that the intervention application deserves to be allowed.

7. Having regard to the above mentioned factual and legal aspects, interference is warranted with the impugned order and hence, the following order is passed:-

I. The writ petition is allowed.

II. The order dated 10.09.2025 passed by the trial Court on the application at Exhibit 80 in Special Civil Suit No.449 of 2017 is quashed and set aside. The application filed by the petitioners/intervenors at Exhibit 80 is allowed and it is directed that the intervenors be impleaded as party defendants in Special Civil Suit No.449 of 2017.

8. Rule is made absolute in aforesaid terms with no order as to costs.

(PRAFULLA S. KHUBALKAR, J.)