

**Order below Exh.30 in Reg. Civil Suit No.37/2020**

(C.N.R. No. MHAH05-000568-2020)

By this application, the third party applicants are contending that, the plaintiffs have filed this suit for seeking relief of perpetual injunction only against Government and Autonomous Bodies. As per their contention, the plaintiffs have suppressed material particulars and merely contended that, a sudden notice of removal of encroachment was issued to them on 11.01.2020. However, these applicants are the owners and possessors of Gat No.74 situated at Wadala Mahadev. They are residing in said Gat number. Towards the Eastern side of Gat No.74, the plaintiffs have committed encroachments, due to which, they are unable to peacefully enjoy their own property. Except, the road situated on the Eastern side, they are having no other valid road for their access. As such, the act of encroachment of the plaintiffs is nothing but a nuisance and therefore, they have knocked the doors of several offices including Grampanchayat, Tahasildar, Zilha Parishad and others. Accordingly, on the basis of their complaint, the resolution dated 26.01.2018 came to be passed in the Gramsabha. Subsequent thereto, on 14.08.2018 also the Gramsabha passed a resolution for removal of encroachment and garbage. Accordingly, they have contended that, the entire action of removal of encroachment is initiated at their instance and therefore, the orders or judgment in this matter is going to affect them. They have further contended that, the plaintiffs have suppressed material facts, which are required to be

brought on record and as they are having direct nexus with the suit, they are necessary parties to this suit. As such, the civil rights of the third party applicants are also involved in this matter. Accordingly, they have prayed for adding them as party defendants in this suit.

2. The plaintiffs by filing their say at Exh.41, resisted the application. As per their contention, the third party applicants have raised false grounds and they are not related or having concern with this dispute in any way. They have further contended that, only with an intention to harass them and prolong the matter, this application is filed. Accordingly, by contending that, the third party applicants are neither proper parties nor necessary parties to this suit, they have prayed for rejection of the application.

3. Heard learned advocate appearing on behalf of third party applicants and the learned advocate of plaintiffs. Perused record. Perusal of record shows that, the plaintiffs have filed this suit for seeking simplicitor relief of injunction, by contending that, the defendants have issued notices to them without due inquiry and under the garb of encroachment and thereby the defendants are intending to obstruct their possession over the suit property and intending to evict them from it. Further perusal of record shows that, the defendants have contended that, the plaintiffs have encroached upon the suit property, which encroachment needs to be removed and

accordingly, by following due process of law, they are taking necessary action against the plaintiffs.

4. These contentions and pleadings raised by the plaintiffs and defendants categorically goes to show that, the dispute between the parties to the suit is very limited. It is also essential to mention here that, the plaintiffs being *dominus litus*, are entitled to file suit against the persons against whom they are having any grievance. In this matter, the plaintiffs have nowhere made any grievance against the third party applicants or any other person than the defendants.

5. Apart from this, the provisions of Order 1 of the Code Of Civil Procedure clearly lays down as to who may be joined as defendants. The provisions of Order 1 Rule 10 of the Code Of Civil Procedure, definitely empowers the court to add or strike out any of the parties. However, for that purpose, the court is required to consider the fact whether the presence of the party is necessary or not. The party can be added only if, its presence is necessary in order to enable the court to adjudicate and settle all the questions involved the suit, effectually and completely.

6. In the present matter, the third party applicants themselves have contended that, the plaintiffs have committed alleged encroachment in the property of Government. It is also specific contention of the third party applicants that, their property in Gat No.74 is situated towards the Western side of

the suit property. While looking at this specific contention of the third party applicants, it becomes crystal clear that, even the third party applicants are also having no right, title, or concern with the suit property. When the third party applicants are not having any concern with the suit property, their presence or absence in this suit would not affect the adjudication of the suit on merits. If at all, the third party applicants are having any grievance against the present plaintiffs or defendants, they are having efficacious remedy of independent litigation. However, as this is a suit for simplicitor injunction and a very limited issue is required to be dealt with in this suit, the third party applicants are neither the necessary parties nor the proper parties to this suit. All the questions involved in this suit can very well be effectually and completely adjudicated and settled without the presence of the third party applicants. Rather, the presence of the third party applicants would create complications and delay in disposal of the matter. Therefore, there appears absolutely no necessity to implead or add the third party applicants as defendants in this suit. Accordingly, the application is devoid of any merits. Consequently, following order is passed.

ORDER

Application stands rejected.

(D.P.Kasat)

Date : 22/02/2022.

Civil Judge, Senior Division
Shrirampur.

CERTIFICATE

I affirm that, the contents of this PDF file order are same word to word, as per the original.

Name of the Court : Civil Court, Senior Division,
Shrirampur, Dist.Ahmednagar.

Name of Stenographer : Ajinath A. Padalkar.

Date of Order : 22.02.2022.