

ORDER BELOW EXH.21 IN R.C.S.NO. 36/2017

1. Third party applicants Shashikant Laxman Sawant for himself and Power-of-Attorney-Holder of Balkrushna Anant Sawant, Suresh Anant Sawant and Sanjay Anant Sawant filed this application under Order I, Rule 10 of the Code of Civil Procedure, 1908 for adding them as parties to this suit.
2. The plaintiff resisted this application vide say at Exh.27.
3. It is the contention of third party applicants vide this application that land bearing Gat No.867 of Mauje Lanja, Tal. Lanja, Dist. Ratnagiri is owned by them and it is recorded in their names to the revenue record. They are in possession of this land as owners of it. Right, title and interest of third party applicants is involved in this property. They are necessary parties to the present suit. Therefore, they prayed for adding them as parties to the suit.
4. The plaintiff resisted the application on the ground that he has filed simplicitor suit for perpetual injunction against defendant Nagarpanchayat, Lanja restraining it from demolishing suit house No.1588 owned by him. The plaintiff filed this suit regarding suit house No.1588 and not for land bearing Gat No.867. Third party applicants are not concerned with the suit house. They are resided at Nachane, Tal. and Dist. Ratnagiri, and they are not having possession in land bearing Gat No.867. They are not necessary parties to the present suit. If third party applicants impleaded in this suit, it will create unnecessary complications in the present suit, which will ultimately affect the

rights of the plaintiff. Therefore, he sought rejection of the application.

5. Perused the record.

6. Heard Ld.Adv.V.S.Kulkarni for third party applicants and Ld.Adv.Shri.O.A.Gangan for the plaintiff at length.

7. After perusing the application and say, and after having heard both the parties, following points arise for my consideration. These points are mentioned here-in-below along-with my findings for the reasons there under:-

SrNo	Points		Findings
1	Whether third party applicants are entitled to be added as parties to this suit?		No
2	What Order?		As per final order application is rejected

REASONINGS

AS TO POINT NO. 1

8. On perusal of the plaint, it reveals that the plaintiff pleaded that the suit house No.1588 situated in land bearing Gat No.867 is his ancestral property. On the basis of false complaints of person by name Sawant, defendant Nagar Panchayat, Lanja initiated action of demolition of the suit house by issuing notices bearing Outward Register No. 1206/2017, dated 10/11/2017 and Outward Register No. 1207/2017, dated 10/11/2017. Therefore, the plaintiff was constrained to file this suit against the defendant for relief of perpetual injunction restraining it from demolishing the suit house. On reading the plaint, it becomes crystal clear that the

present suit is filed by the plaintiff regarding action of demolition of the suit house initiated by the defendant. In the present suit, the suit house bearing house No.1588 is the suit property. Though, the plaintiff pleaded that the suit house is situated in land bearing Gat No.867, this land is not the suit property and the plaintiff has not claimed any relief regarding this land.

9. Third party applicants claimed themselves to be owners of land bearing Gat No.867. On perusal of 7x12 extract at Exh.48, it reveals that names of third party applicants are appeared in the owners' column of this 7x12 extract. On perusal of documents produced by third party applicants upon Sr.No.1 to 3 and 5 at Exh.34, it prima facie reveals that third party applicants made complaints regarding the suit house to the defendant. However, third party applicants have not produced any prima facie evidence to show that they are having right, title and interest in the suit house. They claimed their ownership over land bearing Gat No.867 and not in the suit house. As discussed above, the present suit is concerned only with the suit house, i.e., house No.1588 owned by the plaintiff. The suit is restrained to the action of demolition of the suit house initiated by the present defendant. Third party applicants are not concerned with the cause of action raised by the plaintiff against the defendant. The plaintiff has not prayed for any relief against third party applicants regarding land bearing Gat No.867. Therefore, presence of third party applicants for complete adjudication and disposal of the present suit is not necessary.

10. At this juncture, case laws cited by the plaintiff are necessary to be looked into. In **Mohamed Hussain Gulam Ali Shariffi Vs. Municipal Corporation of Greater Bombay & Ors. 2017(6) ALL MR 420(S.C.)**, it was held that “ *It is a settled principle of law, which does not need any authority to support the principle, that the plaintiff being a dominus litis cannot be forced to add any person as party to his suit unless it is held keeping in view the pleadings and the relief claimed therein that a person sought to be added as party is a necessary party and without his presence neither the suit can proceed and nor the reliefs can be granted. It is only then such person can be allowed to become party, else the suit will have to be dismissed for non-impleadment of such necessary party. In instant suit, for deciding legality of demolition notice, presence of applicants is not required. They are neither necessary nor proper parties. Rights between plaintiff and applicants regarding suit property can be decided in separate suit.*”

11. In **M/s. Dempo Mining Corporation Pvt. Ltd. Vs. Shri Pradit Naik & Ors. 2015(3) ALL MR 276** it was held that “ *It is now well settled that the plaintiffs in a suit are dominus litis. No relief is sought by plaintiffs which would otherwise remotely affect right of the applicant. In case, applicant has any grievance with regard to activities carried out by plaintiff, it is always open to them to take action and avail of such remedy in accordance with the law. It is not possible to get their claims adjudicated by*

seeking impleadment in suit filed by plaintiffs. There is no nexus between dispute in suit and alleged claim put forward by the applicant. Presence of the applicant is not at all necessary to decide the matter in controversy. As such, applicant is not necessary to be impleaded as a party to the suit. ”

12. In case in hand, the plaintiff, being *dominus litis*, filed simplicitor suit for perpetual injunction against the defendant regarding its action of demolition of the suit house belonging to the plaintiff. The plaintiff neither claimed any relief against third party applicants nor they claimed any relief regarding land bearing Gat No.867. Though third party applicants claimed their ownership in land bearing Gat No.867, they have not claimed any right, title and interest in the suit house. There is no prima facie evidence to show that the right, title and interest of third party applicants is involved in the suit house. Third party applicants are not concerned with the cause of action arose to the plaintiff due to action of demolition of the suit house initiated by the defendant. Mutual rights and obligations between the plaintiff and third party applicants are not germane to the present suit. If third party applicants have any claim against the plaintiff regarding land bearing Gat No.867, they are free to establish their own claim and title, whatever it may be, in any independent proceeding. Therefore, applying the ratios laid down in above case laws to the factual matrix of the present case, it can be established that third party applicants are neither necessary nor proper parties to the present suit. Hence, I answer point No.1 in negative.

AS TO POINT NO. 2

13. Considering the above discussion, the application of third party applicants is liable to be rejected. Hence, I pass following order :

ORDER

The application at Exh. 21 is rejected with costs.

Date: 24/04/2019.

Place: Lanja.

(D.M.Hinglajkar)
Civil Judge J.D.,Lanja,
Dist.Ratnagiri.

Case No : RCS No. 36 of 2017

I affirm that the contents of this pdf file Judgment are same words as per original Judgment,

Name of the Stenographer : Y.S.Lahute

Court Name: Civil & Criminal Court, Lanja, Dist. Ratnagiri.

Date of decision :24/06/2019.

Judgment signed by P.O.on : 24/06/2019.

Judgment uploaded on : 24/06/2019

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