

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 5553 OF 2014
LAXMI ANJAYYA ADLAKONDA
VERSUS
MUNICIPAL CORPORATION, AURANGABAD AND ANOTHER

...

Advocate for Petitioner : Mr. Ajit D.Kasliwal
Mr. M.M. Joshi, Advocate for respondent No.2.

CORAM : N.W. SAMBRE, J.
DATE : 17TH MARCH, 2015.

PER COURT:

1] Heard.

2] By order dated March 29, 2014, passed by the District Judge -1, Aurangabad in R.C.A. No. 251 of 2013, an application preferred under Order I, Rule 10 of C.P.C. came to be granted, whereby, the respondent No.2 was impleaded as party respondent to the appeal. Feeling aggrieved thereby, the present petition.

3] Shri Kasliwal, learned counsel for the petitioner/appellant strenuously urged that a stranger to the present proceedings has no locus or legal right, whatsoever, to encroach upon the legal right of the present petitioner/appellant, as according to him, if any cause accrues to the respondent No.2, he has his own remedies which are available in law. He has further urged that if the revenue proceedings in relation to land in question are decided either way, the respondent no.2 may take out appropriate proceedings thereof. However, he cannot put hurdle in smooth conduct of the appeal qua right of the present petitioner against the respondent Corporation. According to him, as such, the impugned order is not

maintainable.

4] The prayer is opposed by the counsel for respondent No.2 on the ground that it is an admitted fact that there exists a SHEEV in between the land of the petitioner and the land of the respondent No.2. Said admitted fact could be further clarified by the boundaries mentioned in the sale deed of the present petitioner. Respondent Corporation issued notice to the petitioner for carrying out the construction of compound wall on the said SHEEV, which is denied by the petitioner. According to him, any adjudication in appeal qua right of the petitioner to carry out construction on the said SHEEV as claimed by the Corporation, will have a direct bearing over the right of the respondent and as such, according to him, the order impugned is just and proper and prayed for rejection of the petition.

5] Having gone through the observations made by the learned trial court, in the light of the above referred submissions made by respective parties, it is noticed that the existence of SHEEV in between the property of the petitioner and respondent No.2 is not in dispute. The bone of contention is the location/situation of construction of compound wall, which according to petitioner is on his own land, whereas, according to respondent No.2, is on the SHEEV, which is available for use to both the parties and also other persons.

6] If the claim put forth by the respondent No.2 and granted by the learned Appellate Court is considered in the above mentioned

background, in my opinion, the learned Court below was right in granting said application. The Court below has given enough reasons in support of grant of claim of the respondent for being impleaded as party respondent No.2 in appeal. So far as next submission of the petitioner as regards revenue proceedings are concerned, same lack originality and are always subject to the outcome of the civil suit. In view thereof, submission of learned counsel that revenue proceedings will take its own course will be of hardly any assistance to present petitioner. The order passed by the Revenue Authorities are not binding on the Civil Court. In that view of the matter. no case for interference is made out. Writ petition stands dismissed.

[N.W. SAMBRE]
JUDGE.

grt/-