

Sequeira

WRIT PETITION NO. 1155 OF 2015.

Ms.Ashwini Purav, for the Petitioner.
Mr.Chandrakant Chavan, for Respondent No.1.

CORAM: N.M.Jamdar J.
Wednesday 25 March, 2015

P.C.:

Heard learned counsel for the parties.

2 The learned counsel for the Petitioner states that the impleadment of the Petitioner in the suit filed by Respondent No.1 is necessary as the Petitioner is residing in the premises and not the Respondent No.2 as well as that the Respondent No.1 is not the landlord of the premises. Both the Courts have rejected the application for impleadment by the Petitioner on the ground that the Petitioner is not concerned with the litigation.

3 Learned counsel for the Respondent No.1 submitted that it is the choice of the Plaintiff whom he should join and he will take the risk of not joining the Petitioner. If inspite of putting him to notice of the claim of the Petitioner, the Respondent No.1 has not joined

the Petitioner, any decree obtained in the present suit will not be binding on the Petitioner. Furthermore, if Petitioner chooses to obstruct the execution proceedings, it will have to be tried as a suit.

4 Since the Petitioner is claiming that the Petitioner is in possession of the property in his independent right and that the Respondent No.1 is or the true landlord of the premises, are not recognising this fact, it would be advisable that the Petitioner takes substantive proceedings to safeguard his rights as regards his tenancy rights. If the Petitioner institutes substantive proceedings in respect of his rights, the observations made in the impugned orders will not come in his way and the suit will be decided on its own merits. If such a suit is filed, it would be open to the Petitioner to apply to the Court that the present suit and the suit filed by the Petitioner should be taken up together for consideration.

5 In view of all these protections available to the Petitioner no orders are required to be passed in this petition, which is accordingly disposed of.

6 The learned counsel for the Petitioner seeks continuation of the stay. The stay is granted to the suit filed by the Respondent No.1. In view of the above clarification there is no need to continue the stay. The interim order stands vacated.

(N.M.Jamdar J.)