

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION (ST) NO. 32449 OF 2014
WITH
CIVIL APPLICATION NO. 205 OF 2015

Abdul Razzak Husein Mansuri .. Petitioner/Applicant
vs.

Mohammed Aslam Ebrahim Bambotia and ors. .. Respondents

Mr. A.H. Khatri for the Petitioner/Applicant for the Petitioner.

CORAM : M. S. SONAK, J.
DATE : 21 JULY 2015.

P.C. :-

1] This petition challenges the order dated 3 November 2014, by which the Appellate Bench of the Small Causes Court has permitted the impleadment of the petitioner in R.A.E. Suit No. 89/117 of 2010 by holding that the petitioner is at least a proper party to such proceedings.

2] Learned counsel for the petitioner submits that this is a case of dispute between the two landlords. One of the landlord has authorisedly inducted the petitioner as a tenant of the suit premises even prior to filing of the suit. Accordingly, the petitioner submits that the petitioner is neither a necessary nor a proper party in the suit instituted by the other alleged landlord. In any case, in this regard the learned counsel for the petitioner states that there there is

no privity of contract whatsoever between the petitioner and the plaintiff in R.A.E. Suit No. 89/117 of 2010 and adopts the reasoning in the order dated 15 December 2012 made by the Small Causes Court whilst rejecting the application for the petitioner's impleadment.

3] Having heard learned counsel for the petitioner and perused the record, in my judgment, there is no case made out to interfere with the impugned order. The plaintiff in R.A.E Suit No. 89/117 of 2010 claims to be landlord in respect of the suit premises. The said plaintiff, had instituted a suit of eviction against the two defendants in the suit on certain grounds under the Maharashtra Rent Control Act, 1999 (said Act). It is further case of the said plaintiff that defendant Nos.1 and 2 in the suit have unlawfully sublet the suit premises to the petitioner herein. On this basis, the plaintiff in the said suit applied for impleadment of the petitioner and to add the ground of unlawful subletting. In such circumstances, it cannot be said that the petitioner herein is not a proper property. The Trial Court was not right in entering into the merits of the disputes and attempting to determine the issue as to whether the petitioner was lawfully inducted or not at the stage of deciding the application for

impledment. The Appeal Court has adopted proper approach and has held that the petitioner is indeed a proper property. The impleadment of the petitioner will also avoid multiplicity of proceedings. Ultimately, the plaintiff seeks eviction of the occupants from the suit premises. The petitioner claims to be occupant in the suit premises. The issue as to whether the occupation of the petitioner is legal or not will ultimately have to be decided in the suit. In these circumstances, however, it cannot be held that the petitioner is neither a necessary nor a proper property. There is accordingly, no jurisdictional error in making of the impugned order.

4] However, it is clarified that this Court has not gone into the merits of the respective contentions raised by the parties. The observations, if any are for the limited purpose of deciding the issue of impleadment. Therefore, the Trial Court to decide the suit on its own merits and in accordance with law, without being influenced by any observations made either in order dated 15 December 2012, (which has already been set aside) or the order dated 3 November 2014 made by the Appeal Court or by this Court.

5] Accordingly, this petition is dismissed. There shall, however, be no order as to costs.

6] In view of dismissal of Writ Petition (St) No. 32449 of 2014, Civil Application No. 205 of 2015 does not survive and is accordingly, disposed of.

(M. S. SONAK, J.)

dinesh