

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1882 OF 2007

Merzban Nadirsha Commissariat .. Petitioner
VS.
Behram Rustom Sethna & Ors. .. Respondents

None for Petitioner.
None for Respondents.

CORAM : M. S. SONAK, J.
DATE: 18 APRIL 2015

P.C. :-

1] This writ petition challenges order dated 11 January 2007, by which the petitioner's intervention application in Suit No. 5110 of 2004 has been rejected by the City Civil Court, Greater Mumbai.

2] From the perusal of the impugned order and the records, it appears that the petitioner, by way of application for intervention, seeks to raise certain issues which concern mainly the father of the plaintiff no. 1. There is record that the petitioner was not even the member of the defendant society, since his removal from membership by resolution dated 8 January 2005.

3] In any case, even without consideration of the aforesaid aspect, but looking to the cause of action pleaded in the plaint and the reliefs applied therein, it cannot be said that the impugned order, to the extent it holds that the petitioner is neither a necessary nor proper party to the suit, is in excess of jurisdiction.

4] The impugned order in fact, protects the petitioner, by observing that in case the petitioner has any grievance against the plaintiffs or the defendants, it is always open to the petitioner to initiate separate proceedings against them.

5] Accordingly, there is no error of jurisdiction. There is no case made out that the City Civil Court, in exercise of its jurisdiction has acted with any material irregularity. Accordingly, this petition is dismissed. Interim relief stands vacated. There shall be no order as to costs.

6] Since, in pursuance of interim order made in this petition, the proceedings in S. C. Suit No. 5110 of 2004 had been stayed, the Registry to forward a copy of this order to the City Civil Court, within a period of fifteen days from today. The City Civil Court, to take cognizance of authenticated copy of this order and proceed with S.C. Suit No. 5110 of 2004. Further, considering that the suit is of the year 2004, the City Civil Court is directed to dispose of the same as expeditiously as possible and in any case within a period of one year from today.

7] All parties to act on basis of an authenticated copy of this order.

(M. S. SONAK, J.)

Chandka