

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION (STAMP) NO.7184 OF 2015

Shri. Shyam Sundar Radheshyam Agarwal .. Petitioner

Versus

M/s Sanghvi Developers Pvt Ltd. and others .. Respondents

Mr. S. D. Patil, for the Petitioner.

Mr. Deepak Shukla i/by Vinod Mistry & Co., for the Respondent No.13.

Mrs. V. S. Nimbalkar, AGP for the Respondent Nos.9, 10 & 12.

CORAM : R.M. SAVANT, J.

DATE : 10th JUNE, 2015

PC.

1. The order dated 22.01.2015 passed by the Additional Commissioner, Konkan Division, Mumbai allowing the application for impleadment filed by the Respondent No.13 in RTS No.189 of 2013 is taken exception to by way of the above Petition. The said order has been challenged on the ground that the application of the Respondent No.13 was filed at the fag end of the hearing of the said RTS proceedings, which proceedings relates to the dispute as regards mutation entry between Petitioner and the other Respondents. The locus-standi of the Respondent No.13 to intervene in the said RTS proceedings is also questioned by the Petitioner. In the above Petition, a notice came to be issued on 31.03.2015

and interim stay to the further proceedings being conducted by the Additional Commissioner, Konkan Division came to be granted.

2. On notice being issued appearance is put up on behalf of the Respondent No.13. The Respondent No.13 has filed a praecipe bearing No.A-3141/945/2015 through his Solicitors Vinod Mistry & Company for the matter being taken up on board and being disposed of by setting aside the impugned order and remanding the matter back to the Additional Commissioner, Konkan Division for a de-novo consideration of the application for impleadment. The Learned Counsel appearing for the Respondent No.13 today also tendered the affidavit of Respondent No.13 Shri. Alex alias Sunny George D'Silva, wherein paragraph 8 reads thus. The same is reproduced herein for the sake of ready reference.

“I also have No Objection for the setting aside of the impugned order by this Hon'ble Court and the matter to be remanded back for fresh hearing and disposal after hearing all the parties and considering the claims of all the parties concerned including that of myself.”

3. The Learned Counsel for the Petitioner Mr. S. D. Patil has no objection to the said course of action being followed. However, he contends that the issue of maintainability of the application for impleadment may also be kept open. The Learned Counsel appearing for the Respondent No.13 has no objection to the same. Hence, in view of the

praecipe dated 09.06.2015 as also the affidavit of the Respondent No.13 dated 07.05.2015 the impugned order is by the consent of the Respondent No.13 quashed and set aside and the matter is remanded back to the Additional Commissioner, Konkan Division for a de-novo consideration of the application for impleadment filed by the Respondent No.13. Needless to state that the said application would be tried by the Additional Commissioner, Konkan Division on its own merits and in accordance with law. The contentions of the parties are kept open including the contention as regards the issue of maintainability of the said application which issue would be adjudicated upon by the Additional Commissioner, Konkan Division with the other issues that would arise for consideration whilst adjudicating upon the said application for impleadment. The said application be decided within eight weeks from date. With the aforesaid directions, the Writ Petition is disposed of.

[R.M. SAVANT, J]