

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2743 OF 2015

Shri Dattatray Shankar Patil	]	
Through Power of Attorney holder	]	
Sou. Manisha Chandrashekhar Patil.	]	... Petitioner

Versus

Shri Balwant Shankar Patil and Ors.	]	... Respondents
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Mr. Prashant Bhavake for Petitioner.

CORAM :- M. S. SONAK, J.

DATE :- MARCH 17, 2015

P. C. :-

1. This petition is directed against the Order dated 21/02/2015 made by the Civil Judge, Senior Division, Kolhapur, rejecting the Petitioner's application to implead 21 persons as Defendant Nos.12 to 32.

2. Upon perusal of the impugned order and record, it transpires that the suit was filed in the year 2009. Objection with regard to non-joinder was raised by the Defendant in the year 2009 itself. At a stage when the matter was posted for final arguments, the application came to be made seeking impleadment.

3. The learned Advocate for Petitioner submitted that the Court is empowered to exercise the powers under Order 1 Rule 10 of the CPC at any stage of the suit. This is right. However, this does not mean that the trial Court is obliged to exercise such power at any stage of the suit. In this case, the impugned order also records that the entire objective of moving such an application at a belated stage is to dilute or to “wash out” the admission of the Plaintiff in the cross-examination. In the past, the Petitioner had also filed 3 similar applications in the matter of impleadment of the parties, which applications were allowed. The impugned order records that the Petitioner was very much aware of this position, as objection with regard to non-joinder were raised by the Defendants at the earliest instance.

4. If at this stage permission for impleadment is granted, then the trial in the suit will virtually have to re-commence insofar as newly impleaded parties are concerned. There is no real explanation as to why such parties, if at all they are necessary parties, were not impleaded in the first instance. At any rate, there is no explanation as to why such parties were not impleaded no sooner objections with regard to non-joinder were raised by the Defendants.

5. There is no jurisdictional error in the making of the impugned order. The approach of the learned Civil Judge, Senior Division, Kolhapur, is right. Accordingly, no case is made out to interfere with the impugned order.

6. Petition is dismissed. There shall be no order as to costs.

(M. S. SONAK, J.)