

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3301 OF 2015

Nilesh Yeshwant Nallulwar	..	Petitioner
VS.		
Smt. Bhagyalaxmi Subhash Nallulwar & Ors.	..	Respondents

Mr. Shrishail Sakhare for Petitioner.

CORAM : M. S. SONAK, J.
DATE : 22 JULY 2015

P.C. :-

1] This petition challenges the order dated 31 January 2015, by which the District Judge, Solapur, has dismissed the petitioner's application at Exhibit 35 seeking impleadment in regular civil appeal no. 298 of 2013.

2] The appellants in regular civil appeal no. 298 of 2013 are some of the original defendants in regular civil suit no. 508 of 2009 instituted in the Court of Civil Judge, Junior Division at Solapur. The said suit was instituted by Bhagyalaxmi Nallulwar, who is *inter alia* impleaded as respondent no. 1 in regular civil appeal no. 298 of 2013.

3] The petitioner has some claims in respect of the suit premises and has disputes in that regard with Bhagyalaxmi Nallulwar. The

learned counsel for the petitioner points out that there were litigations between the petitioner and Bhagyalaxmi Nallulwar and finally the petitioner has instituted an appeal in this Court against certain adverse orders suffered by him. Since such appeal was instituted after the prescribed period of limitation, condonation of delay has been applied for and even notices have been issued by this Court. In such circumstances, the learned counsel for the petitioner submits that since the petitioner has substantial interest in the suit premises, the petitioner ought to be impleaded as a party in regular civil appeal no. 298 of 2013.

4] Having considered the submissions of the learned counsel for the petitioner and perused the record, I see no reason to interfere with the impugned order. The petitioner, is neither a necessary nor a proper party in the pending appeal. As noted earlier, a dispute in the appeal is between Bhagyalaxmi Nallulwar, who had instituted the civil suit against the tenants, some of whom, are appellants in regular civil appeal no. 298 of 2013. The joinder of the petitioner in such an appeal is neither necessary nor the same being proper. In fact, the same may embarrass further proceedings in the appeal.

5] In case the petitioner has any disputes with Bhagyalaxmi Nallulwar, it is for him to take out appropriate proceedings before

the appropriate forum. It appears that such proceedings are already pending. There is no allegation in the application under Order 1 Rule 10 of CPC made by the petitioner that Bhagyalaxmi Nallulwar might collude with some of the tenants and thereby defeat the rights, if any, of the petitioner. There is no jurisdictional error in the making of the impugned order. This petition is therefore dismissed. There shall be no order as to costs.

(M. S. SONAK, J.)

Chandka