

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5761 OF 2014

Mr. Dhaval Subhash Sheth.] ... Petitioner

Versus

Mr. Suresh Matthew and Ors.] ... Respondents

Mr. E. K. Sasidharan for Petitioner.

CORAM :- M. S. SONAK, J.

DATE :- JULY 10, 2015

P. C. :-

1. This petition challenges order dated 14/02/2014, by which the Small Causes Court, Mumbai, has permitted impleadment of Respondent No.4 Mrs. Zankhana Subhash Sheth in R.A.D. Suit No.1229 of 2013 instituted by the Petitioner.

2. The learned Counsel for Petitioner has submitted that the Respondent No.4, on basis of fabricated documents, claims to be the widow of his late father Shri Subhash Chhabildas Sheth. On basis of such fabricated documents, the Respondent No.4 ought not to have been allowed to be impleaded in the proceeding. In any case, the learned Counsel for Petitioner submits that if at all the Respondent No.4 has any right in respect of the suit premises, it is for the Respondent No.4 to take out independent proceeding rather than intermedial in the present proceeding which have been instituted by

the Petitioner seeking joint tenancy right in respect of the suit premises along with Respondent Nos.2 and 3.

3. Having heard the learned Counsel for Petitioner and perused the record, in my judgment, no case is made out to interfere with the impugned order. The Respondent No.4, along with her application seeking impleadment, has produced certain certificates issued by the authorities in U.S.A. with regard to her status as the widow of Late Shri Subhash Chhabildas Sheth, the father of the Petitioner. At this stage, it is not possible to go into the issue as to whether such documents are false and fabricated. At least at this *prima-facie* stage, there was nothing wrong in the Small Causes Court accepting such documents and permitting impleadment. The suit seeks declaration and joint tenancy. Driving the Respondent No.4 to file independent proceeding, would only lead to multiplicity of proceedings.

4. Accordingly, there is no jurisdictional error in the making of the impugned order. This petition is accordingly dismissed.

5. It is, however, clarified that the observations in the impugned order dated 14/02/2014 or for that matter in the present order, are only *prima-facie* and for the purposes of deciding the issue of impleadment. Accordingly, all contentions of all parties, including in particular the contention of the learned Counsel for Petitioner with regard to the status of the Respondent No.4, is specifically kept open.

6. Further, at the request of the learned Counsel for Petitioner, time for compliance with the impugned order dated 14/02/2014 is extended up to 31/07/2015.

7. All concerned to act on basis of authenticated copy of this order.

(M. S. SONAK, J.)