

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 4993 OF 2014**

Latadevi Darshanlal Lalwani

..Petitioner

Vs.

**Bhiwandi Nizampur City Municipal Corporation
through Commissioner & Anr.**

..Respondents

Ms Anita Bhaktwani for the Petitioner

CORAM : R. M. SAVANT, J.

DATE : 6th JANUARY, 2015

P.C.

1 The order dated 5-12-2011 passed by the Learned Civil Judge Junior Division, Bhiwandi, allowing the application for impleadment filed by the Respondent No.2 herein, is taken exception to by way of the above Petition.

2 The Suit in question being Regular Civil Suit No.167 of 2011 has been filed by the Petitioner challenging the notice issued by the Bhiwandi Nizampur City Municipal Corporation i.e. the Respondent No.1 alleging the carrying out of unauthorised construction by the Petitioner. The Respondent No.2 i.e. the Applicant has sought his impleadment on the basis that he is one of the co-owners of the property i.e. the land out of which some area has been leased out to the Petitioner. In the application, it is averred that the Petitioner has carried out unauthorised construction by demolishing the structure and thereafter seeking to put up new construction. The Trial Court having regard to the aforesaid facts and considering that the application was one filed under

Order I Rule 10 of the Civil Procedure Code deemed it appropriate to allow the said application.

3 It is the contention of the Learned Counsel for the Petitioner that the Respondent No.2 is neither a necessary nor a proper party. It is not possible to accept the said contention of the Learned Counsel for the Petitioner having regard to the fact that the Respondent No.2 i.e. the Applicant is one of the co-owners of the property and the alleged unauthorised construction is put up on the land which has been leased out to the Petitioner. In my view, the Respondent No.2 may not be a necessary party but is a proper party whose presence is required for the adjudication of the Suit. Hence no case for interference is made out. The Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]