

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5915 OF 2014**

M/s Thakkar Builders & Developers

..Petitioner

Vs.

Panvel Municipal Council & Ors.

..Respondents

Mr. J. G. Reddy for the Petitioner

Mr. S. D. Rayrikar AGP for the Respondent No.2

CORAM : R. M. SAVANT, J.

DATE : 19th AUGUST, 2015

P.C.

1 The Writ Jurisdiction of this Court is invoked against the order dated 28-3-2014 passed by the Learned Joint Civil Judge Senior Division, Panvel, by which order, the application Exhibit 27 filed by the Respondent No.3 seeking his impleadment in Regular Civil Suit No.912 of 2012 came to be allowed and resultantly the Respondent No.3 was directed to be impleaded in the Suit in question.

2 The Suit in question i.e. Regular Civil Suit No.912 of 2012, has been filed by the Petitioner /Plaintiff claiming an injunction against the Respondent Nos.1 and 2 herein. The injunction sought is from restraining the Respondent Nos.1 and 2 i.e. the Defendants to the Suit from cancelling the occupation certificate issued to the Petitioner, and from cancelling the sub division of the plot of land in question. In so far as the Respondent No.3 is concerned, he has also purchased the plot of land which is adjoining to the plot of land of the Petitioner in the instant Petition. The said 2 plots have been

carved out of final plot No.72B which was originally of the ownership of one Pandurang G. Mithbawkar. The said original owner sub-divided the said plot into two parts and sold them to the Petitioner and the Respondent No.3 herein. The Petitioner has also filed Regular Civil Suit No.755 of 2012 in which Suit the Respondent No.3 is a party and in which reliefs have been sought against the Respondent No.3. The instant application filed by the Respondent No.3 is founded on the fact that the Plaintiff is encroaching on his plot of land on the ground that the same is an access road to his plot. It is therefore the case of the Respondent No.3 that having regard to the aforesaid facts, the Respondent No.3 i.e. the Applicant is a necessary party to the Suit. The Trial Court considered the said application Exhibit 27 and having regard to the well settled principles applicable to Order I Rule 10 of the Civil Procedure Code and having regard to the facts involved in the present case, came to a conclusion that the Applicant is a necessary party to the Suit.

3 In my view having regard to the fact that in the instant Suit the allegation of the Applicant / Respondent No.3 is revolving around the alleged unauthorised construction carried out by the Petitioner, the impugned order passed by the Trial Court allowing the application for impleadment, cannot be taken exception to. No case for interference is therefore made out. The Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]