

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.8334 OF 2015

Narayan Gopal Deshmukh : Petitioner.
Versus
Bhavasar Dharmashala
Through their President
previsiously through Chindhu Dagadu Bhavsar
(since deceased)
now through Ashok Pandharinath Bhavsar
and anr. : Respondents.

**Mr. S M Gorwadkar, Senior Advocate, i/by Mr. S H Gangal for the
Petitioner.**

CORAM : R. M. SAVANT, J.
DATE : 26th October 2015

P.C.

1 The writ jurisdiction of this Court is invoked against the order dated 08/07/2015 passed by the learned Joint Civil Judge Junior Division Kalwan Dist. Nashik by which order the Application (Exhibit 25 filed by the Respondent No.1 herein came to be allowed and one Ashok Pandharinath Bhavsar was permitted to be included as Plaintiff.

2 The suit in question being Regular Civil Suit No.47 of 2014 was filed by the Respondent No.1 through its President one Ashok Pandharinath Bhavsar. The said suit has been filed seeking reliefs on the basis that the Petitioner has encroached upon the property of the said Respondent. After the suit was filed, the person claiming to be the President one Chindhu Dagadu

Bhavasar expired and therefore an application was made by one Ashok Pandharinath Bhavsar for impleading him as a Plaintiff so as to prosecute the suit. In so far as the Petitioner is concerned, he has filed his written statement and questioned the locus standi of the Respondent to file the suit, as also the locus stand of the said Chindhu Dagadu Bhavsar to prosecute the suit as the President of the said Bhavsar Samaj.

3 The Trial Court has allowed the instant application(Exhibit 25) on the ground that the defence raised by the Defendant cannot be resolved without the evidence being led. In so far as the aspect of the locus standi of the Respondent to prosecute the suit is concerned, since the Petitioner has already raised it in his written statement it would always be open for the Petitioner to seek framing of an issue on the said basis at the appropriate stage either if the occasion arises to invoke section 9A of the Code of Civil Procedure or by filing an application under Order VII Rule 11 of the Code of Civil Procedure. The contentions of the parties on the said aspect are kept open for being agitated at the appropriate stage. However, for the present no interference is called for with the impugned order. The above Writ Petition is accordingly dismissed. However, needless to state that the dismissal of the above Petition would not influence the Trial Court whilst adjudicating the issue as adverted to herein above, if the same is raised at the appropriate stage.

[R.M.SAVANT, J]