

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION St. NO.22893 OF 2015**

Ashok Bhagwandas Chawla

..Petitioner

Vs.

The Ulhasnagar Municipal Corporation & Anr.

..Respondents

Mr. Ganesh Gole a/w Mr. Sathya, Acharya for the Petitioner

Mr. M. J. Chettiwal i/b Mr. S. M. Kamble for the Respondents

CORAM : R. M. SAVANT, J.

DATE : 1st SEPTEMBER, 2015

P.C.

1 The Writ Jurisdiction of this Court is invoked against the order dated 24-7-2015 passed by the Learned Civil Judge Junior Division, Ulhasnagar, by which order, the application filed by the Respondent No.2 herein seeking his impleadment in the Suit in question being Regular Civil Suit No.179 of 2014, came to be allowed and the Plaintiff i.e. the Petitioner herein was directed to implead the Respondent No.2 as the Defendant in the Suit.

2 The Suit in question has been filed by the Petitioner/Plaintiff challenging the notice issued by the Respondent No.1 Municipal Corporation alleging unauthorised construction being carried out by the Petitioner. The Respondent No.2 claims to be the adjacent plot owner and it is his case that the

Petitioner/Plaintiff is encroaching upon his property as a consequence of which the Respondent No.2 complained to the Respondent No.1 Municipal Corporation, pursuant to which the notice in question came to be issued. The Trial Court considered the said application and has by the impugned order dated 24-7-2015 allowed the same. The Trial Court was of the view that having regard to Order 1 Rule 10 of the Civil Procedure Code, the impleadment of the Respondent No.2 is necessary to effectually and completely adjudicated upon and settle all the questions involved in the Suit.

3 It is sought to be contended on behalf of the Petitioner by the Learned Counsel Mr. Gole that the Respondent No.2 is not an adjacent land owner and has therefore nothing to do with the construction which has been put by the Plaintiff. In support of the said contention, the Learned Counsel sought to rely upon the description of the property given in the application filed by the Respondent No.2.

4 In the light of the said contention raised by the Learned Counsel for the Petitioner this Court has considered the description of the property as given in the application and juxtaposed it with the description of the property in the Suit filed by the Plaintiff and on such comparison it can be said that the Respondent No.2 is an adjacent land owner. It is also required to be noted that the Respondent No.2 has complained against the said construction.

5 In my view, having regard to the well settled principles applicable to Order 1 Rule 10 of the CPC, the impleadment of the Respondent No.2 cannot be found fault with. No case for interference in the Writ Jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]