

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

WRIT PETITION (STAMP) NO.24251 OF 2015

Jayant Trilokraj Singhal

.. Petitioner

Versus

Shekhawat Narendra Singh and others

.. Respondents

Mr. D. S. Jain, for the Petitioner.

Mr. Ranawat Jeelindra i/by Mr. W. Ahwad, for the Respondent Nos.2 to 4.

CORAM : R.M. SAVANT, J.

DATE : 16th SEPTEMBER, 2015

PC.

1. The Writ Jurisdiction of this Court is invoked against the order dated 17.08.2015 passed by the Learned Judge of the City Civil Court, Mumbai, by which order the Chamber Summons filed by the Petitioner being Chamber Summons No.1025 of 2015 seeking his impleadment in the suit in question being Short Cause Suit No.1407 of 2013 came to be rejected. The suit in question has been filed by the Respondent No.1 herein principally for the relief that the Defendants should follow the due process of law, if they intend to evict the Plaintiff i.e. Respondent No.1 herein. The Plaintiff has averred that the Defendant No.1 to the suit i.e. the Respondent No.2 herein is the owner of the suit

property and the Plaintiff claims that he was put in possession in the year 2010 and a plea of tenancy is sought to be taken. It appears that though the suit is filed in the year 2013 and though summons were served on the Defendants, the Defendant Nos.1 and 2 have not filed their Written Statement. The Defendant No.1 is the father of the Petitioner herein i.e. the Applicant in the Chamber Summons.

2. The Petitioner/Applicant has filed the Chamber Summons seeking his impleadment on the ground that he in fact is the owner of the suit property which he claims to have purchased vide registered agreement to sale entered into with one Savita Sharma dated 06.02.2012. The Petitioner therefore sought his impleadment in the suit. The Trial Court considered the said application and rejected the same on the ground that the presence of the Applicant is neither necessary nor proper. The Trial Court observed that the Plaintiff has not claimed title over the suit property and that he has claimed injunction to the effect that the Defendants should not dispossess him without following the due process of law. The Trial Court has also observed that the application seems to have been filed with an intent to get over the difficulty arising out of the fact that the original Defendants have not filed the Written Statement though period of two years has elapsed and therefore the modality of the application for impleadment has been adopted. The Learned Counsel

appearing on behalf of the Petitioner Mr. D. S. Jain sought to urge contentions which were urged on behalf of the Petitioner before the Trial Court. The Learned Counsel would contend that it is the Petitioner who in actual fact is the owner of the suit property and therefore is required to be joined as party to the suit in question. In so far as the said aspect is concerned, it is required to be borne in mind that the Plaintiff is the *dominus litus* and has accordingly joined the Defendants who are parties to the suit as party Defendants. The Plaintiff would therefore prosecute the suit at his own peril if the actual owner of the property is not joined. However, the order passed by the Trial Court rejecting the application on the ground that the said modality of filing an application for impleadment is to get the Written Statement filed through the newly added Defendant seems to have some substance. In my view, therefore, no case for interference in the Writ Jurisdiction of this Court is made out. The Writ petition is accordingly dismissed.

[R.M. SAVANT, J]

CERTIFICATE

Certified to be true and correct copy of the original signed
Judgment/Order.