

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.18 OF 2015

Shakeel Rafik Shaikh and Others.] ... Petitioners

Versus

Damodar Yadav Ghatmal and Others.] ... Respondents

Mr. Satyajeet Mirajkar for Petitioner.
Mr. Pramod J. Pawar for Respondent No.1.

CORAM :- M. S. SONAK, J.
DATE :- MARCH 17, 2015

P. C. :-

1. This Petition challenges the Order dated 06/11/2014 , by which Petitioner's application seeking impleadment as a Defendant in the suit has been dismissed with costs of Rs.1,000/- payable to the Respondent/Plaintiff.

2. The civil suit in which the Petitioners applied for impleadment has been pending since the year 2000. Practically all proceedings in the said civil suit have come to a conclusion and all that remains to be done is the passing of final Judgment and Decree. Based upon registration of the Wakf Board in the year 2014, the

Petitioners who claim to have some interest in the property which is the subject matter of the civil suit, applied for impleadment. The application was undoubtedly highly belated and therefore the same was rightly rejected by the Civil Judge, Senior Division, Malegaon. There is no jurisdictional error or perversity and accordingly there is no case made out to interfere with the impugned order.

3. However, it is clarified that in case the Petitioners claim right or interest in respect of the suit property, it is always open to them to institute independent proceeding. The observations in the impugned order dated 06/11/2014, will obviously not come in the way of the Petitioners instituting such independent proceedings.

4. There is also one more aspect. On the ground that the present petition is pending, the Petitioner applied for an adjournment before the Civil Judge, Senior Division at Malegaon on 03/03/2015. The same was granted by the learned Civil Judge subject, however, to payment of costs of Rs.10,000/-. Now that the present petition is not being entertained, the Civil Judge, Senior Division at Malegaon is free to proceed with the civil suit and to decide the same in accordance with law. However, order for payment of costs of Rs.10,000/-, in the circumstances, appears to be harsh and therefore the same is set aside.

5. Subject to the aforesaid, there is no reason to interfere with the impugned order dated 06/11/2014. However, the order dated 03/03/2013 imposing costs of Rs.10,000/- is hereby set aside.

6. The petition is disposed of in aforesaid terms. There shall be no order as to costs.

(M. S. SONAK, J.)