

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11545 OF 2014

Manish Govardhan Masand .. Petitioner
VS.
Pandharinath Sitaram Patil & Ors. .. Respondents

Ms Prabha Badadare i/b. Mr. Hemant Patil for Petitioner.
Mr. P. V. Sawant i/b. Bhave & Co. for Respondent No. 1.
Mr. J. M. Puranik for Respondent No. 2.
Mr. A. G. Kundekar for Respondent No. 3.

CORAM : M. S. SONAK, J.
DATE : 26 FEBRUARY, 2015

P.C. :-

1] The records indicate that the respondent no. 4 has not been served in the matter. The respondent no. 4 is one of the respondents in Tenancy Revision Application No. 167-B of 2005 pending before the Maharashtra Revenue Tribunal ("MRT"). In view of the controversy raised in this petition, the said respondent no. 4 is not a necessary party. Therefore, the respondent no. 4 is ordered to be deleted forthwith. The petitioner to carry out necessary amendment to the cause title in the course of the day.

2] Notice had already been given that an endeavour shall be made to dispose of this petition finally at the stage of admission.

3] Rule. With the consent of and at the request of the learned counsels for the parties, Rule is made returnable forthwith.

4] This petition is directed against the order dated 29 November 2014 made by the MRT, declining impleadment of the petitioner in the revision application.

5] The records indicate that there is an appeal pending before the District Court between the parties concerning the property, which is also the subject matter of the revision application before the MRT. Therein, the District Court, by order dated 16 December 2013 has permitted the impleadment of the petitioner as party respondent. The matter was carried before this Court by respondent no. 1 herein, who is also, incidentally, a respondent in the revision application before the MRT instituted by the respondent no. 2. The said writ petition no. 8619 of 2014 was dismissed by this Court on 11 November 2014 holding that there was nothing wrong in the District Court's order directing impleadment of the petitioner as respondent in the said proceedings.

6] The respondent no. 2, who has instituted the revision application before the MRT submitted that the application for

impleadment came to be made after inordinate and unexplained delay. This submission cannot be accepted, because it is an admitted fact that the revision application, though instituted in the year 2005, is even today at the initial stage itself, on account of certain miscellaneous applications pending consideration. Taking into consideration that both the District Court and this Court have held that the petitioner deserves to be impleaded as a respondent in the proceedings before the District Court, which admittedly concern the same property, which is subject matter of proceedings before the MRT, it was not proper for the MRT to have made the impugned order. At the stage of making of the impugned order, the MRT need not have gone into details with regard to entitlement, if any, of the petitioner. Suffice to note that the petitioner had been held as at least proper party in the proceedings before the District Court, which position was affirmed by this Court as well.

7] Accordingly, the impugned order is set aside. The petitioner's application for impleadment dated 24 June 2014 is allowed. The respondent no. 2 i.e. the applicant in Tenancy Revision Application No. 167 of 2005 is directed to carry out the necessary amendment to the cause title within a period of four weeks from today.

8] It is clarified that this Court has not examined the merits or demerits of the contentions of the respective parties. Accordingly, it will be open to the MRT to adjudicate upon the same, in accordance with law.

9] Rule is made absolute to the aforesaid extent. There shall be no order as to costs.

10] All parties to act on the basis of an authenticated copy of this order.

(M. S. SONAK, J.)

Chandka