

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

WRIT PETITION NO.593 OF 2015

Shankar Raghmal Rohida : Petitioner
versus
Sou.Vaishali Rajaram Choudhari & ors. : Respondents.

Mr. Jaydeep Deo for the Petitioner.

CORAM : R. M. SAVANT, J.
DATE : 21st January 2015

P.C.

1 The writ jurisdiction of this Court is invoked against the order dated 23/9/2014 passed by the learned 2nd Joint Civil Judge, Junior Division, Pune by which order the Application (Exhibit 155) filed by the Petitioner came to be rejected.

2 The said Application (Exhibit 155) was filed by the Petitioner for his impleadment in Regular Civil Suit No.1817 of 2005. The said suit has been filed by the Respondent No.1 herein for partition and separate possession of her undivided share in the suit properties. The said suit is of the year 2005. The Petitioner claims to have become the owner of Block No.661 and also in possession thereof. He further claims that Block Nos.663, 665 and 657 are also agreed to be transferred to him by Bhamabai Kisan Undre and Sunil Kisan Undre under an Agreement of Sale executed in the year 2007. These lands are the subject matter of the suit. It is on the said basis that the Petitioner had

sought his impleadment.

3 The Trial Court has rejected the said Application on the ground that the interest if any that is created in the Petitioner is in the year 2007, that is pending suit. The Trial Court has further observed that though the Petitioner claims to have purchased the undivided share of Bhamabai and Sunil in Block No.661, he has not placed the details thereof on record nor pleaded as to whether he had filed any suit for partition of the joint family properties. The Trial Court therefore was of the view that the impleadment of the Petitioner cannot be allowed and that the suit can be effectually adjudicated in his absence.

4 The learned counsel for the Petitioner Shri Jaydeep Deo would contend that the properties which are the subject matter of the instant suit are the properties which are not belonging to the branch of Bhivram but in fact belonging to the branch of Shivram from which branch a right is created in favour of the Petitioner. It is required to be borne in mind that the Petitioner has purchased the suit properties pendent lite and wants to contend that the suit properties are not belonging to the branch of Bhivram. The instant suit being one for partition filed by the Respondent No.1 herein, how the Petitioner has any right to get himself impleaded in the suit therefore begs an answer. If the Petitioner claims to have purchased any undivided share, it is open for the

Petitioner to file a suit for partition or if he claims that he has purchased a delineated share, he may assert his right by independent proceedings. With the aforesaid observations, the above Writ Petition is disposed of.

[R.M.SAVANT, J]