

HON'BLE SRI JUSTICE DILIP B. BHOSALE

CIVIL REVISION PETITION No. 4119 OF 2013

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P.C:

Heard learned counsel for the parties.

This C.R.P is directed against the order dated 26-08-2013 on I.A No. 207 of 2013 in O.S No. 1 of 2013, whereby the petitioner's prayer for their impleadment in the suit filed by respondent No.1 against respondent No.2 has been rejected.

The suit is for injunction simplicitor. In view thereof, ordinarily, this Court would not have interfered with the order rejecting the application for impleadment made by a welfare association. However, in view of the peculiar facts and circumstances of the case, in my opinion, the impugned order deserves to be set aside.

It is not in dispute that respondent No.1 apprehends disturbance to her possession over the suit property from respondent No.2 – Corporation at the instance of the petitioner. Learned counsel appearing for respondent No.1 submits that though the Corporation regularised the possession of respondent No.1 over the suit plot, the petitioner – welfare association made a complaint to the Corporation and in view thereof, she apprehends disturbance to her possession by the Corporation. According to the petitioner, respondent No.1 has encroached upon the portion of road meant for the members of the welfare association, and they want their impleadment in the suit for protecting the road. The trial Court has already granted order of status quo. Till today, respondent No.2 – Corporation has not filed either counter or written statement in the suit, nor have they moved the Court for vacating the order of status quo or taking any action against unauthorised occupation/proposed construction of compound wall. Under these circumstances, the petitioner – welfare association filed an application, which, in my opinion, ought to have been allowed for the reasons stated above. The petitioner's presence in the suit in view of the callous attitude of the Corporation has become necessary. This

Court has consistently taken a view that neighbours aggrieved by unauthorised construction can seek impleadment in a suit against Municipal Corporation (see ***Hiranand vs. T.M. Kambati*** and ***Racharla Tirupathi and others vs. Gundala Shobha Rani***).

In the circumstances, the order rejecting the application filed by the petitioner under Order I rule 10 read with Section 151 of the Code of Civil Procedure is set aside and the application bearing I.A No.207 of 2013 is allowed. It is open to the petitioners to file written statement within a period of ten weeks from today.

The C.R.P is accordingly allowed. Miscellaneous petitions, if any, also stand disposed of.

DILIP B. BHOSALE, J

02-04-2015

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