

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

WRIT PETITION NO. 2232 OF 2014

Mochi Samaj Co-op. Hsg. Society Ltd.
Through Director,
Shri Venkateshwar Ramchandra Asade,
143/44, Railway Lines, Kanapure Chawl,
Solapur.

... Petitioner

v/s

1. Municipal Corpn. Of City of Solapur
2. New Jagjivanram Rashtriya Ekatmik
Magasvargiya Sah. Griha Nirman Sanstha,
Solapur.
3. Shri Babu Narsappa Mehetre,
At 1/1 New Jagjivanram Coop.Hsg.Socy.,
Modi, Solapur.

... Respondents

Mr.Surel Shah for the petitioner.
Mr.Dilip Bodake for Resp. No.1.
Mr.A.B.Tajane for Resp. No.2 and 3.

***Coram: N.M. Jamdar, J.
Dated: 3 October 2016***

ORAL ORDER:

By the impugned order, the learned Civil Judge, Junior Division, Solapur, has granted the application filed by Respondent No.2 - Co-operative Society, for joining themselves as party to the suit filed by the Petitioner.

2 By an order dated 6 March 2014, notice was issued to the

Respondents for final disposal. Notice has been served. Accordingly, taken up for final disposal.

3 In the suit, the Petitioner has prayed for a declaration that the housing scheme sanctioned on Plot Nos.1, 2 and 3 of City Survey No.288, Solapur City, be declared as invalid and not binding on the Petitioner, and a prayer for an injunction.

4 In the suit, the Municipal Corporation is a Defendant. An application is filed by Respondent No.2 stating that pursuant to the policy of the Central Government and Government of Maharashtra, the Respondent Corporation has pursued a scheme – National Integrity Housing and Slum Development Programme, wherein the slum dwellers have formed a cooperative society. Tenders have been called and pursuant to this allotment, the Respondent No.2 has started the work, therefore, they are necessary party. Learned counsel for the Petitioner has made a grievance that on these bare assertions, Respondent No.2 has been joined as a party Respondent. Respondent No.2 has relied upon the order passed in Writ Petition No.2122 of 2004 by the Division Bench, wherein the Petitioner had earlier moved for removal of the encroachment.

5 I have perused the application as well as the averments in the plaint, more particularly, paragraph 4(A). If it is the case of the Respondent No.2 that an allotment has been made in favour of

Respondent No.2, it will be pursuant to the orders of the statutory authorities and there will be documentation in that regard. Learned counsel for the Petitioner is justified in making a grievance that, without placing these documentation on record, Respondent No.2 could not have been held to be necessary party.

6 In the circumstances, it will be appropriate if the impugned order dated 4 December 2013 is quashed and set aside with liberty to Respondent No.2 to file an application for joining themselves as party, by annexing necessary documentary evidence regarding allotment in their favour in respect of the properties described in the plaint. The learned Civil Judge will decide the application filed by Respondent No.2 on its own merits. Order accordingly.

7 The writ petition is disposed of in above terms.

8 The application will be filed within a period of four weeks from today along with necessary documentation. If such an application is filed by Respondent No.2, the learned Civil Judge will make an endeavour to dispose of the application if there are no earlier commitments, within a period of six weeks thereafter. Only after the decision on the application filed by Respondent No.2, that the learned Civil Judge will proceed with the trial of the suit.

(N. M. Jamdar, J.)