

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8836 OF 2016

Swati A. Magdum .. Petitioner
vs.
Appaso B. Magdum .. Respondent

Mr. Anant Vadgaonkar for the Petitioner.

CORAM : M. S. SONAK, J.
DATE : 6 SEPTEMBER 2016.

P.C. :-

1] The challenge in this petition is to the order dated 28 April 2016, by which the Civil Judge, Senior Division, has permitted the impleadment of one Sukumar K. Patil as defendant No.2 in Suit No. 100 of 2014 instituted by the respondent.

2] Learned counsel for the petitioner contends that the plaintiff is required to stand or fall upon the case which has been originally pleaded. The suit in the present case has been instituted by the plaintiff seeking for divorce on the ground of adultery. Mr. Sukumar K. Patil is sought to be impleaded as a defendant on the alleged ground that the petitioner is living in adultery with said Sukumar K. Patil. Without impleadment of Sukumar K. Patil, the suit was incompetent and such incompetent suit cannot be permitted to be

saved by such impleadment. Further, learned counsel for the petitioner states that no relief has been applied for against said Sukumar K. Patil and there is also possibility that the plaintiff will collude with Sukumar K. Patil. For all these reasons, learned counsel for the petitioner submits that the impugned order is liable to be interfered with.

3] There is no merit in this petition. If according to the petitioner the suit was not competent without the impleadment of Sukumar K. Patil in the first instance, then, nothing prevents the plaintiff from seeking impleadment of said Sukumar K. Patil. It is not necessary that some relief has to be applied against all the parties to the suit. In this case, Sukumar K. Patil has been impleaded as a proper party.

4] The objection on the basis of collusion is quite misconceived. If the reply filed by the petitioner opposing the application seeking impleadment is perused, there is not even a whisper regards such objection.

5] There is no jurisdictional error in permitting the impleadment of Sukumar K. Pati. Accordingly, present petition is dismissed. There shall however, be no order as to costs.

(M. S. SONAK, J.)