

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 10457 OF 2016

Shri Kundalik Bhavana Patil

...Petitioner

Versus

Vithu Bhavana Patil And Anr.

...Respondents

....

Mr.S.M. Kamble, Advocate for the Petitioner.

....

CORAM : R. G. KETKAR, J.

DATE : 22nd DECEMBER, 2016

P.C.

1. Heard Mr.S.M. Kamble, learned Counsel for the petitioner, at length.
2. By this Petition under Article 227 of the Constitution of India, the petitioner, has challenged the judgment and order dated 13.6.2016 passed by the learned Jt. Civil Judge, Junior Division, Kagal below Exhibit-123 in R.C.S. No.165/2009. By that order, the learned trial Judge rejected the application filed by the petitioner under Order I Rule 10(2) of C.P.C. for impleading him as a defendant in the suit. In paragraph-5 of the impugned order, the learned trial Judge has observed that the suit is instituted by the plaintiff for redemption of the mortgage and for recovery of possession. The petitioner is not party to the mortgage deed. The

relief is not claimed as against the petitioner. The petitioner as a Power of Attorney holder on behalf of the defendant has filed written statement. The petitioner is looking after the proceedings on behalf of the defendant. The suit is of the year 2009 and the present application is filed in the year 2016. No explanation was offered by the petitioner for belatedly filing the application. The defence tried to be set up by the petitioner is also incorporated in the written statement. The learned trial Judge accordingly rejected the application.

3. Mr. Kamble invited my attention to paragraph-A of the application made by the petitioner for impleadment, wherein it is averred that the petitioner herein and two others have share in the suit property. The petitioner is, therefore, necessary or a proper party in the suit.

4. For the reasons recorded in paragraph-5 of the impugned order, I do not find that the learned trial Judge has committed any error in passing the impugned order. Hence, Petition fails and the same is dismissed.

(R. G. KETKAR, J.)