

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8911 OF 2011

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr.Sandesh D. Patil for the petitioner

Mr.D.P.Kamat for the respondent no.1

CORAM : K. K. TATED, J.
DATE : JULY 15, 2016

P.C.:

1 Heard.

2 By this petition under Article 227 of the Constitution of India the Petitioner org.third party is challenging the order dated 30.7.2011 passed by Civil Judge, Junior Division, Wada below Exhibit-45 in Regular Civil Suit No. 64 of 2008 rejecting their application for joining them as party defendant in the Suit.

3 The learned counsel for the petitioner submit that in the present proceeding, respondent filed Regular Civil Suit No. 64 of 2008 in the court of Civil Judge, Junior Division Wada against respondents defendants for an order of injunction

from creating any third party right, title and interest in respect of the suit property i.e. block no.23/1 of Village Sarshi, Tal.Wada. He submits that the said suit was filed by the plaintiff on 12.8.2008. He submits that during the pendency of the said suit, defendants executed sale deed on 15.6.2009 in respect of the suit property in favour of petitioner. Therefore, in view of subsequent development, petitioner filed application before the Trial Court for joining them as party defendant in the pending suit.

4 The learned counsel for the petitioner submits that Trial Court failed to consider the fact that in view of subsequent development, petitioner is necessary party to decide the dispute between the parties. He submits that Trial Court failed to consider the fact that in view of sale deed dated 15.6.2009, petitioner became owner of the suit property. If any order is passed in the suit that will affect the petitioner's right, title and interest. As these facts were not considered by the Trial Court, hence the present petition. He submits that in the interest of Justice, this Hon'ble Court be pleased to set aside the order dated 30.7.2011 below Exhibit-45 in Regular Civil Suit No.64 of 2008 and direct the respondent plaintiff to join petitioner as defendant.

5 On the other hand, the learned counsel for the respondent vehemently opposed the present

Writ Petition. He submits that in the present proceeding, Trial Court passed order on 12.8.2008 directing parties to maintain status quo. In spite of status quo order passed by Trial Court, the defendants created third party right, title and interest in respect of the suit property by sale deed dated 15.6.2009 in favour of the petitioner. He submits that in spite of the status quo order passed by Trial Court, respondents/defendants created third party right in favour of petitioner, hence petitioner is not entitled to any relief in the Suit filed by the plaintiff. He further submits that suit is only for injunction restraining defendants from creating third party rights in respect of the suit property. He further submits that if petitioner has any independent right, he can take appropriate proceeding according to law, therefore, there is no substance in the present Writ Petition and same be dismissed.

6 Heard both the sides at length.

7 Admittedly, during the pendency of the Suit, defendants executed sale deed dated 15.6.2009 in favour of petitioner in violation of the status quo order dated 12.8.2008. Suit is only for injunction restraining defendant from alienating the suit property. If the petitioner has any independent right, he can take proper course according to law.

8 Considering these facts, I do not find any substance in the present Writ Petition.

9 Writ Petition stands rejected.

JUDGE