

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 126 OF 2016

Mr. Udayraj Yadav	..	Petitioner
vs.		
Municipal Corporation for Greater Mumbai & Anr.	..	Respondents

Mr. V. T. Dubey for Petitioner.
None for Respondents.

CORAM : M. S. SONAK, J.
DATE: 10 OCTOBER 2016

P.C :

1] The challenge in this petition is to the order dated 1 October 2015, by which, the trial court has permitted respondent no.2 to be impleaded in L.C. Suit No. 708 of 2015.

2] Learned counsel for the petitioner (original plaintiff) contends that factually the respondent no. 2 has no rights whatsoever in respect of the structure in question. Even in respect of the land upon which the structure is situated, the respondent no. 2 is an unauthorised occupant. In such circumstances, learned counsel for the petitioner submits that there is no question of permitting impleadment of respondent no. 2 in the suit.

3] At the stage of deciding the chamber summons seeking impleadment, the trial Judge, has rightly, not addressed himself in great detail on issues as to the entitlement, if any, of the respondent

no. 2. However, on the basis of entries in revenue records as well as the decisions of this Court and the Hon'ble Apex Court, which have been referred to in the impugned order, the learned trial Judge has permitted impleadment. The fact that such impleadment has been permitted does not mean that the rights claimed by the respondent no. 2 have been accepted. All that this means is that the trial Judge, in exercise of the discretion vested in him, has found that the presence of the respondent no. 2 would assist in the effective disposal of the suit. Even if it is assumed that the respondent no. 2 is not a necessary party, the respondent no. 2 is at least, a proper party. There is accordingly, no jurisdictional error in the making of the impugned order.

4] This petition is therefore dismissed. There shall be no order as to costs.

5] It is clarified that the observations in the impugned order as also in this order, are only *prima facie*, and for the purposes of deciding the issue of impleadment. The learned trial Judge, need not be influenced by such observations at the stage of disposal of the main suit on merits.

(M. S. SONAK, J.)