

Sequeira

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

WRIT PETITION NO. 4025 OF 2015

Mr. Annappa Baburao Chougule.

.. Petitioner

Vs.

Mr. Subhash Ganapati Thombare & anr.

.. Respondents

Mr. Rushikesh Patil h/f Mr. Kedar P. Lad, for the Petitioner.

***CORAM : N.M. Jamdar, J.
Tuesday, 30 August 2016.***

P.C. :

By this Petition, the Petitioner challenges the order passed by the Civil Judge, Junior Division Miraj dated 4 September 2014, whereby application moved by Petitioner for amendment and adding a party, has been rejected.

2. It is the case of the Petitioner – Plaintiff that the Petitioner had sold some property to one Gokhale Construction and Developers and the said Gokhale Construction and Developers are disturbing possession of the Petitioner-Plaintiff in the suit property.

3. The suit is filed against Respondent-Defendants. Nothing is shown on record that Gokhale Construction and Developers is in any way connected with these Respondents. Only grievance is that part of the property is conveyed to Gokhale Construction and Developers

who is disturbing possession of the Petitioner in the suit property. The learned Judge has observed that it will be appropriate for the Petitioner to file a separate suit against the said Gokhale Construction and Developers and seek necessary orders.

4. The impugned order is passed on 4 September 2014. The reason given by the learned Judge in not allowing amendment and keeping the rights of the Petitioner open to be agitated in a separate suit, cannot be stated to be perverse or causing any prejudice. The cause of action sought by amendment is entirely different cause of action. The rights of the Petitioner are not foreclosed. The Petitioner can always institute a suit against the proposed Defendants and seek appropriate orders. Since this remedy is available to the Petitioner, it is not necessary to entertain present Petition. Writ Petition is accordingly disposed of.

(N.M.Jamdar, J.)