

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

WRIT PETITION NO. 5049 OF 2017

Ashok Chandrashekhar Vaidya

...Petitioner

Versus

Mohammed Islam Chaudhari & Ors.

...Respondents

.....

Mr. Rahul Tiwari i/b. Mr. K.R. Tiwari for the Petitioner.

.....

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: APRIL 28, 2017**

P.C. :

1. Rule. Rule made returnable forthwith. The Petition is heard finally and disposed of at the stage of admission.

2. This petition is directed against the order dated 19.01.2017 passed by the learned Ad-hoc District Judge, Asstt. Sessions Judge, City Civil & Sessions Court, Greater Bombay in Chamber Summon No. 572 of 2015 in S.C.Suit No. 1346 of 2006. The petitioner, who is applicant has moved Chamber Summon for impleading him in the Suit under Order I Rule 10 of Code of Civil Procedure.

3. The learned counsel for the petitioner has submitted that the petitioner is an owner of the suit plot. He is in a possession of the suit plot. He has further submitted that the Suit filed by the plaintiff i.e. respondent no.1 is based on false and fraudulent facts and he is not in a possession of the suit property. He has further submitted that respondent no. 2 is nowhere concerned with the suit property and he is a developer. He has further submitted that if the Suit is decreed, then the petitioner will suffer great loss, harm, injury and it will affect his interest. He has further submitted that defendant no.2 is falsely claimed as owner of the suit property, who has fraudulently sold alleged property to the plaintiff and subsequently, defendant no. 2 has cancelled the said MOU. He has further submitted that being an owner of the suit plot, the petitioner is necessary party.

4. Perused the plaint and the submissions made by the learned counsel for the petitioner. It appears that the petitioner claims ownership in the suit property. However, the original plaintiff has filed the Suit for a declaration and injunction only against the defendants that they should not disturb his peaceful possession.

Considering the scope of the Suit, the petitioner who claims his possession in the Suit is not necessary for the adjudication of the issue, but he may file a separate Suit to protect his rights in the suit property. I am of the view that there is no need to disturb the order passed by the learned Judge. Hence, Writ Petition is dismissed.

(MRIDULA BHATKAR, J.)