

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

WRIT PETITION NO. 4104 OF 2017

Mr.Dilip Khanderao Ranbhor	...Petitioner
Versus	
Smt.Lilabai Ravindra Pagar & Ors.	...Respondents

.....

Mr.Rameshwar N. Gite for the Petitioner.

.....

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: JUNE 30, 2017**

P.C. :

1. Not on board. Upon mentioning, taken on board.

2. Rule. Rule made returnable forthwith. By consent, petition is heard finally and disposed of at the stage of admission.

3. This petition is directed against the order dated 07.02.2017 passed by the learned Civil Judge, Senior Division, Niphad, District-Nashik below Exhibit 100 in Special Civil Suit No.256 of 2012.

4. Respondent no.1/original plaintiff had filed the Suit for partition. The petitioner, who is defendant no.2 had filed the written statement and counter claim in February 2016. After filing of the Suit, respondent no.1/original plaintiff and defendant nos.3 to 8 have sold some portions of land in Gat No. 448 and therefore, the petitioner/defendant no.2 had moved an application for impleading those purchasers as party

defendants to the Suit. The said application was rejected by the learned trial Judge. Hence, this Writ Petition.

5. The learned counsel for the petitioner/defendant no.2 has submitted that when the Suit was pending, respondent no.1/original plaintiff and other defendants have sold some portions of land in Gat No. 448, which is also the subject matter of the Suit. When the partition has not taken place, respondent no.1/original plaintiff and other defendants have no right to dispose of the said property. Therefore, the purchasers, who have purchased some portions of land in Gat No. 448 from respondent no.1 and other defendants are necessary and proper parties in the Suit. He has argued that the learned trial Judge while deciding the application for impleading third parties as party defendants has discussed the contents of the sale deeds and decided the merits of the documents which is illegal.

6. Perused the impugned order and also the application made by the petitioner/defendant no.2 for impleading the purchasers as party defendants. The Petitioner/defendant no.2 had also filed the counter claim and had prayed declaration that the sale deeds of portions of land in Gat No.448 are declared to be null and void. From the order passed by the learned Judge, it appears that there were three sale deeds in respect of portions of land in Gat No. 448. Out of two sale deeds, the

petitioner/ defendant no.2 has signed one sale deed dated 10.12.2014, but he has not signed the sale deed dated 17.09.2014 where 75R land was sold to one Sunita. However, one Sunita thereafter sold 50 R out of 75 R to one person and remaining 25 R to other person by sale deed dated 10.12.2014 and disposed of the said land. The petitioner/defendant no.2 has signed on the subsequent sale deed dated 10.12.2014 and therefore, the learned trial Judge has taken a right view that petitioner/defendant no.2 himself is a party to the said sale deed.

7. The statement made by the learned counsel for the petitioner that these sale deeds are declared to be null and void and therefore, the purchasers are required to be pleaded as party defendants would have appreciated, if the petitioner/defendant no.2 would have been imploding any way in his counter claim that his signature appearing on those sale deeds are either forged or all sale deeds are bogus. However, no such pleadings have been made by the petitioner/defendant no.2 and therefore, a view taken by the learned trial Judge cannot be faulted with.

8. Hence, Writ Petition is dismissed.

(MRIDULA BHATKAR, J.)