

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

WRIT PETITION NO. 11181 OF 2016

Sharda Natwar Patel

...Petitioner

Versus

M/s.Sterling Construction
Through proprietor Smt. Meena Pradip
Chopra & Anr.

...Respondents

.....

Mr. A.V.Chatuphale a/w Ms. Bhavika Kuperkar for the Petitioner.

.....

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: JUNE 7, 2017**

P.C. :

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

2. This petition is filed by third party against the order dated 07.07.2016 passed by the learned District Judge-2, Vasai. The petitioner/ appellant in Civil Appeal No. 42 of 2005 has moved an application for amendment i.e. adding proposed respondent Mr. Sadurddin Rayali as a party respondent in the Suit. The petitioner/ appellant is an obstructionist in Regular Darkhast No. 25 of 2002, which has been filed by the original plaintiff i.e. respondent no.1. Respondent no.1 is a decree holder of the decree dated 05.12.2000 in R.C.S. No. 214 of

2000. The trial Court has dismissed the obstruction proceedings and therefore, Miscellaneous Appeal was filed by the petitioner/ obstructionist. On perusal of the application and after hearing both the sides, the learned District Judge has rejected the application for adding third party.

3. Perused the order dated 07.07.2016. The learned District Judge has mentioned that during the pendency of obstruction proceeding before the trial Court, the petitioner/ appellant has admitted that third party rights are created in favour of the proposed respondent in the year 2005 and the impugned application was filed by the appellant on 04.07.2012. No explanation was given by the petitioner/ appellant regarding delay for filing the amendment application. The learned District Judge has taken a right view that the petitioner/ appellant has not taken the steps with due diligence, but there is a long delay. I do not find any illegality in the order dated 07.07.2016 passed by the learned District Judge-2, Vasai. Hence, no interference is required.

4. In view of the above, Writ Petition is summarily dismissed.

(MRIDULA BHATKAR, J.)