

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11494 OF 2017

Jagdish Badrinarayan Kakani	...Petitioner
<i>Versus</i>	
Kakani Shopping Centre & Ors	...Respondents

Mr Amit Gharte, i/b JD Khairnar, for the Petitioner.
Mr VR Kasle, for Respondent No. 2.

CORAM: G.S. PATEL, J
DATED: 2nd November 2017

PC:-

1. The challenge is to an order dated 16th August 2017 of the 2nd Joint Civil Judge, Senior Division, Malegaon passed in Regular Civil Suit No. 466 of 2012. The suit was filed by respondents nos. 1 to 2(d). The petitioner claimed to have a joint interest in the property along with the original plaintiffs. The Trial Judge found on a fairly elaborate consideration of the material that the interests of the petitioner and of the plaintiffs were contrary to each other. There is also a *prima facie* finding returned that the petitioner had joined hands with defendant No. 2. On an overall consideration of the various facts and circumstances, the trial court rejected the application for impleadment.

2. In my view, the order calls for no interference at all. *Prima facie*, it is correct that the claims made by the plaintiffs in regard to the property in question, i.e., of exclusive title and ownership, are contrary to those made by the petitioner of joint ownership to the very same property.

3. If the petitioner desires to file a fresh application to be impleaded as a defendant, whether as a formal party or otherwise, the petitioner is at liberty to make that application. No doubt that that application will also be decided on merits. All contentions are left open and it will be open to the original plaintiffs to contest that application for impleadment if made.

4. However, this petition is devoid of merit. The impugned order calls for no interference and the petition is rejected.

(G. S. PATEL, J)