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

WRIT PETITION NO. 946 OF 2017

Mr. Nitin Dhirajlal Sanghrajka.	... Petitioner. (Orig. Plaintiff)
V/s.	
Ramniklal Pranalal Doshi & Ors.	... Orig. Defendants.
And	
Mr. Sunil Subhash Rawal.	... Respondents. (Orig. Applicant)

Mr. Jayesh Bhatt for the Petitioner.

Mr. Dipesh Siroya for Respondent 6.

Coram : N.M. Jamdar, J.

Date : 22 March, 2017.

P.C. :-

The learned Counsel for the Petitioner seeks deletion of Respondent Nos. 1 to 5, as according to him these Respondents are not necessary for disposal of the present Writ Petition. The deletion is permitted at the risk of the Petitioner. Amendment to be carried out forthwith.

2. Heard the learned Counsel for the parties.

3. By the impugned order dated 30 August 2016, the learned Small Causes Court Judge has granted the application filed by Respondent No.6 for impleadment in RAD Suit No. 892 of 2008 filed by the Petitioner. The Petitioner has filed RAD Suit No. 892 of 2008 for a declaration that the Petitioner is a tenant of the suit premises. An injunction notice was taken out by the Petitioner, consequent to his dispossession from the suit premises, which notice was granted by the learned Small Causes Court by order dated 24 October 2008, and Defendant No.5 was directed to hand over vacant possession of the suit premises to the Petitioner. The Defendant Nos. 1 and 5 in the said suit filed a Misc. Appeal No. 705 of 2008 which was dismissed by order dated 12 October 2015. The Writ Petition filed by these Defendants bearing No. 11514 of 2015 was rejected on 27 November 2015.

4. The learned Counsel for the Petitioner submitted that not only Respondent No.6 has filed obstructionist proceedings but has also filed RAD Suit No. 388 of 2016 against the landlords which are going on. The learned Counsel submitted that in the circumstances, an application filed by Respondent No.6, who is the son of Defendant No.5, at this stage is with a malafide intention. The learned Counsel for Respondent No.6 submitted that in the plaint itself it is the right of Respondent No.6 is mentioned.

5. The Petitioner, who is the Plaintiff is in carriage of the proceedings and it is for the Plaintiff to decide whom to join as a party in the suit. Apart from this position, the obstructionist proceedings have been taken out in respect of Respondent No.6 which will have to be tried as per law wherein Respondent No.6 will get full opportunities to put forth his case. Respondent No.6 has also filed an independent suit against the Petitioner and other Defendants claiming right in the suit premises and therefore, even if the Respondent No.6 is not joined in the present suit, he will not be prejudiced.

6. The learned Counsel for the parties submitted that it will be appropriate that all the proceedings between the parties as mentioned above are heard together. The proceedings are already been tagged together as informed by the learned Counsel for the parties. The learned Small Causes Court Judge may consider taking them together on the same day for the sake of convenience.

7. Accordingly, the impugned order dated 30 August 2016 is quashed and set aside, keeping all contentions of the parties on merits open. The Writ Petition is disposed of in above terms.

(N.M. Jamdar, J.)