

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 60 OF 2017

Ashok R. Chauhan .. Petitioner.
vs.
Felix Simon Mendonza and anr. .. Respondents.

Mr. Rakesh Pathak for the Petitioner.

CORAM : M. S. SONAK, J.
DATE : 4 SEPTEMBER 2017.

P.C. :-

- 1] Not on board. In view of urgency, taken on production board.
- 2] Heard Mr. Pathak, learned counsel for the petitioner.
- 3] The petitioner challenges the orders dated 17th November 2016 made below Exhibit-13 and Exhibit-16 by the Small Causes Court at Mumbai declining leave to the petitioner to be impleaded as a party in R.A.E. Suit No. 1982 of 2014 and declining leave to produce certain documents in the said suit.
- 4] Admittedly, R.A.E. Suit No. 1982 of 2014 had been instituted by one Felix Simon Mendonza claiming to be owner/landlord against P.M. Chedda, who has been styled as the tenant in respect of the suit premises. The petitioner Ashok Chauhan claims that he is

the owner and in possession of the suit premises. On this basis, he seeks impleadment in the suit and thereafter, leave to produce certain documents.

5] In the suit as instituted, the petitioner is neither a necessary party nor a proper party. If the petitioner, indeed, has his claim of ownership and possession to the suit premises, then it is for the petitioner, to institute independent proceedings before the appropriate forum and assert his alleged rights. However, the impleadment of the petitioner in the present proceedings, will completely derail and embarrass the present proceedings, which will essentially, the proceedings between the landlord and tenant. Since, there is no case made out to implead the petitioner as a party in the suit, obviously, the petitioner cannot also be granted any leave to produce documents in the suit. Thus construed, there is no jurisdictional error or unreasonableness in the making of the impugned orders.

6] This petition is accordingly, dismissed. There shall, however, be no order as to costs.

7] Needless to add that any decision in the suit, will not bind or affect any alleged rights of the petitioner in respect of the suit premises.

(M. S. SONAK, J.)