

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

943 **LETTER PATENT APPEAL NO. 4 OF 2018**
WITH
CA/5418/2009 IN LPA/4/2018

VIJAY @ PAPPU NRAYANDAS RIZWANI AND ORS
VERSUS
NARAYANDAS NWALRAI RIZWANI

...

Advocate for Appellants : Mr. Anil Kasliwal,
holding for Ms. Netrali N Gangwal (Jain)
Advocate for Respondent No.2 : Mr. G.A. Gadhe

...

CORAM : T.V. NALAWADE AND
SUNIL K. KOTWAL, JJ.

DATE : 21st MARCH, 2018

PER COURT :

Both the sides are heard.

2. This appeal is filed to challenge the order made by the learned Single Judge of this Court in Writ Petition No. 1784 of 2008, dated 12th February, 2009. The trial Court has allowed the application filed by the present respondent No.2 Smt. Sonali and she is made party-defendant in the suit.

3. Both the sides are heard.

4. Before going through the facts, it needs to be mentioned that the Writ Petition is filed to challenge the order made by the trial Court on application filed under Order 1 Rule 10 of the Code of Civil Procedure, and that proceeding is required to be considered by this Court under Article 227 of the Constitution of India as this Court has supervisory jurisdiction over the Civil Courts. Due to the single circumstance, it needs to be presumed that the Writ Petition is considered under Article 227 of the Constitution of India, and so, Letter Patent Appeal itself is not tenable.

5. On merits also, the appellant has no case. This Court has gone through the contents of the plaint and the contents of the application filed by Smt. Sonali. Every where in the plaint, there is mention of Smt. Sonali and it is contended that she is posing herself as wife of Narayandas Rizwani and Narayandas Rizwani is causing obstruction in the suit property.

In ordinary course, if there was obstruction of Smt. Sonali, the suit ought to have been filed against Smt. Sonali but tactic is played to see that she does not come before the Court and the relief is obtained only against Narayandas, who is an old person, father of plaintiff. Due to all these circumstances, on merits also, the trial Court has not committed any error.

6. In view of above, Letter Patent Appeal stands dismissed. In view of disposal of L.P.A., Civil Application No.5418 of 2009 also stands disposed of.

(**SUNIL K. KOTWAL, J.**)

(**T.V. NALAWADE, J.**)