

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

***CIVIL APPLICATION NO.2554 OF 2016
IN
WRIT PETITION NO.5668 OF 2015***

Huzaifa Saifuddin Bhusavalwala .. Applicant

In the matter between

Pandurang Balu Takave & Ors. .. Petitioners

Vs.

The State of Maharashtra & Ors. .. Respondents

***WITH
CIVIL APPLICATION NO.821 OF 2017
IN
WRIT PETITION NO.5668 OF 2015***

Vikram Ashvinlal Shah & Ors. .. Applicants

In the matter between

Pandurang Balu Takave & Ors. .. Petitioners

Vs.

The State of Maharashtra & Ors. .. Respondents

***WITH
CIVIL APPLICATION NO.1665 OF 2017
IN
WRIT PETITION NO.5668 OF 2015***

Mangilal Takhatmal Patwari & Ors. .. Applicants

In the matter between

Pandurang Balu Takave & Ors. .. Petitioners

Vs.

The State of Maharashtra & Ors. .. Respondents

WITH

CIVIL APPLICATION NO.1666 OF 2017
IN
WRIT PETITION NO.5668 OF 2015

Himanshu Ashok Jhaveri & Ors. .. Applicants

In the matter between
Pandurang Balu Takave & Ors. .. Petitioners
Vs.

The State of Maharashtra & Ors. .. Respondents

Mr.Rahul P. Walvekar for the applicants in CAW Nos.2554/16, 821/17 & 1666/17.

Mr.Joseph B.Fernandis for the applicants in CAW No.1665/17.

Mr. S.H. Kankal, AGP for the respondent nos.1 & 2-State.

Mr.Chetan G. Patil for other respondents and for the petitioners in WP No.5668/15.

CORAM : R.D. DHANUKA, J.

DATE : 21st February 2018

P.C.:

. By these applications, all these applicants seek intervention in Writ Petition No.5668 of 2015 on the ground that in respect of one of the plot bearing Survey No.49, if any order is passed by this Court in this petition, rights of the applicants would be seriously prejudiced.

2. A perusal of the prayers made in writ petition clearly indicates that the petitioners have impugned the judgment and order dated 16th May 2015 passed by the respondent no.2 in Execution Application No.210 of 2005 and pray that the said execution application be allowed by this Court.

3. I have heard the learned counsel appearing for the parties at length. The sale deed in favour of the applicants in respect of portion of

land bearing Survey No.49 and the effect thereof is disputed by the petitioners. In this writ petition, the petitioners are praying for execution in the execution application and for quashing and setting aside the judgment and order dated 16th May 2015 passed by the respondent no.2. Rival claims in respect of title of portion of the land cannot be gone into in this petition. The applicants will have to file a separate proceeding for seeking adjudication on their rival claims in respect of part of the claims which is the subject matter of this petition.

4. In my view, the applicants are neither necessary nor proper parties to this proceeding. The applications are accordingly disposed of. No order as to costs. The applicants would be at liberty to file appropriate proceedings. It is made clear that this Court does not express any views on rival claims made by the applicants in respect of the subject matter of this petition and the same can be independently decided in the proceedings that maybe filed by the applicants.

R.D. DHANUKA, J.