

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

**CIVIL APPLICATION NO.1138 OF 2018
IN
SECOND APPEAL NO.145 OF 2018**

Pramod Gajanan Sankhe ...Applicant

In the matter between

1. Vijay Balkrishna Dandekar & Anr. Appellants

Versus

Palghar Municipal Council ...Respondent

.....

Mr. Ramdas A. Shelke for the Applicant.

Mr. Nitin Gangal for the Appellants.

Mr. B.D. Joshi with Ms Darshana S. Pawar for the Respondent.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 28th NOVEMBER, 2018.

P.C.:-

By this application the Applicant has sought to implead himself as party Respondent in Second Appeal No.145 of 2018.

2. Heard Mr. Ramdas Shelke, the learned counsel for the Applicant. He submits that the Respondent- Municipal Council had issued impugned notice to the Appellant pursuant to the complaint /letter addressed by the Applicant. He submits that the road, which is

sought to be obstructed is a public road and that the rights of the Applicant will be affected in case any adverse order is passed against the Municipal Council.

3. At the outset it may be mentioned that the Applicant herein had filed a similar application before the Trial Court. The said application was dismissed by order dated 5th July, 2007. The Applicant did not challenge the said order. Subsequently the suit was decreed and the first appeal was dismissed. The Applicant herein was neither a party to the suit nor to the first appeal. It is seen that the Applicant has once again sought to implead himself as a party to the second appeal on the same grounds, which were raised earlier in application filed under Order I, Rule 10 of CPC.

4. The Applicant claims that the Appellant had tried to fence the public path used by him and others and thus tried to infringe their rights. The issue involved in the suit and the appeal is about the validity of the notice issued by the Respondent-council. The Applicant and others cannot get any relief in the present proceedings. Furthermore, it is stated that the Applicant has already filed a suit against the Appellant in respect of the said pathway. Under the circumstances, the Applicant is not a proper or a necessary party.

5. Hence, the Application is dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)