

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11388 OF 2019

HARISHCHANDRA BHAGWANRAO CHANDARE
VERSUS
SUBHASH BHIMRAO BANSODE AND OTHERS

Mr.R.R.Shaikh, Advocate for the petitioner.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 21/09/2019

PER COURT :

1. The petitioner/original plaintiff in RCS No.345/2013 is aggrieved by the order dated 11/09/2018 passed by the Trial Court, by which, application Exh.39 filed by a third party Subhash Bhimrao, seeking addition to the suit, has been allowed.

2. I have considered the strenuous submissions of the learned Advocate for the petitioner and have gone through the petition paper book. I have also considered the 10 grounds formulated by him in the memo of the petition.

3. It appears from the record that the third party Subhash moved Exh.39 on the basis of a contention that the petitioner has executed

an agreement to sell in his favour with regard to a portion of the suit property. He has filed RCS No.501/2014 for seeking specific performance of contract, in which the petitioner is a defendant. The rights of Subhash on the basis of such agreement to sell would be adjudicated upon in the said suit. He, therefore, approached the Trial Court in the earlier suit filed by the petitioner to seek addition so that contradictory orders are not passed.

4. The Trial Court has allowed Exh.39 on the ground that he has already preferred a suit in 2014 seeking specific performance of contract. The learned Advocate for the petitioner submits that application Exh.5 filed by Subhash seeking temporary injunction has been rejected by an order dated 08/12/2017.

5. Considering the peculiar facts as recorded above, I do not find that any injustice has been caused to the petitioner by adding Subhash in his suit when there is already a suit preferred by Subhash asserting his right to the property. The impugned order therefore does not call for any interference and this petition, being devoid of merit, is therefore, dismissed.

6. The learned Advocate for the petitioner submits at this

juncture that he may be permitted to file an application seeking stay of the proceedings in RCS No.501/2014. Since this issue is not before this Court, there is no reason to express any opinion. Suffice it to say that if such an application is filed by the petitioner, the same shall be considered on its own merits.

(Ravindra V.Ghuge, J.)