

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 617 OF 2019

SYLVIA FURTADO SOARES., ... Petitioner

Versus

CASSANDRA DE SOUZA., ... Respondent

MR. Shailesh Redkar, Advocate for the Petitioner.

Coram:- C. V. BHADANG, J.

Date:- 19th July 2019

P.C.

Heard Mr. Redkar, the learned Counsel for the petitioner for sometime.

2. The petitioner/plaintiff has filed Regular Civil Suit No.166/2015/I against the respondent for declaration and injunction. The dispute pertains to an access which, according to the petitioner, has been blocked by the defendant somewhere on 04.09.2014. The subject matter of the suit to which the access is claimed has subsequently been sold by the petitioner to her niece, Ms. Savita Pereira on 31.07.2017. On account of this subsequent development, the petitioner filed an application, exhibit D-26, before the learned Trial Court for amendment of plaint and for addition of Mrs. Savita Pereira as co-plaintiff no.2.

That application has been dismissed by the Trial Court by the impugned order dated 07.12.2018, inter alia, on the ground that

the petitioner after the sale of the suit property to her neice, has no locus standi to file the application to implead the subsequent purchaser. It is for the subsequent purchaser to approach the Court to get herself impleaded in the suit, in the event if any of her rights are being affected.

3. It is obvious that no person can be joined as a plaintiff or a co-plaintiff without his or her consent. Thus, if at all cause of action as to the blockade of suit access still continues, Mrs. Savita Pereira, who is the subsequent purchaser can move the Court for impleading herself as plaintiff no.2 and then prosecute the suit, if so desired. In fact, the Trial Court has observed in para 8 of the impugned order that the subsequent purchaser can approach the Court to implead her in the suit in the event any of her rights are being affected.

4. In such circumstances, no case for interference is made out. The petition is dismissed.

C. V. BHADANG, J.

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