

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 933 OF 2018

Shivaji Vilas Savant ... Petitioner
Vs.
Vilas D. Savant & Ors. ... Respondents

WITH
WRIT PETITION No. 1076 OF 2018

Tanaji Vilas Savant & Ors. ... Petitioners
Vs.
Vilas D. Savant & Ors. ... Respondents

Mr. R. S. Apte, Sr. Counsel a/w Saurabh Oka, for the Petitioner in WP. 933/2018, a/w. S. C. Wakankar, for the Petitioner in WP. 1076/2018.

Mr. V. S. Talkute, for the Respondent Nos. 2 to 4.

CORAM : M. S. SONAK, J.

DATE : MARCH 14, 2019

ORAL JUDGMENT:

1. Not on board. Upon mentioning, taken on board.
2. Rule. Rule made returnable forthwith. Mr. Talkute waives notice for Respondent Nos. 2 to 4 in both the petitions. By consent of parties, both the petitions are taken up for final hearing.
Heard Mr. Apte, learned senior counsel for the petitioners in both the

petitions, and Mr. Talkute, learned counsel appearing for respondent Nos. 2 and 4 in both these petitions.

3. The respondent No.1 – Vilas D. Sawant is father of Petitioner (in WP. 933/2018) and the Petitioner No. 1 (in WP. 1076/2018), and the father-in-law of Petitioner No. 2 and the grandfather in Writ Petition No. 1076 of 2018, as well as the original plaintiff in the suit.

4. By applications styled at exhibits 113 and 109, the petitioners in both petitions had applied for impleadment as parties to the counter claim to the suit. Said counter-claim has been filed by respondent Nos. 2 to 4. By the impugned orders, both these applications came to be rejected by the learned Trial Judge.

5. Mr. Talkute, learned counsel who appears on behalf of the respondent Nos. 2 to 4 on the basis of written instructions from the respondent makes a statement that respondent Nos. 2 to 4 do not object to the impleadment to the petitioners as parties in the counter claim. Even otherwise, the petitioners can certainly be said proper parties so far as the counter-claim is concerned.

6. Accordingly, the impugned orders in both the petitions are hereby set aside and the applications at Exhibits 113 and 109 are hereby allowed. Respondent Nos. 2 to 4 to carry out necessary amendment within two weeks.

7. Mr. Apte, learned advocate for the petitioner states that the petitioners will waive service before the learned Trial Court so that, there will be no necessity of effecting fresh service upon the petitioners. This statement is accepted. The written instructions tendered by respondent Nos. 2 to 4 to Mr. Talkute are taken on record and marked "X" for the purpose of identification.

8. The copy of the amended plaint and counter-claim, and the written-statement to be furnished to the petitioners within a period of two weeks from today. The petitioners are granted liberty to file their written statement to the counter-claim within a period of four weeks from the date of receipt of the aforesaid copies.

9. The rule is made absolute to the aforesaid extent in both the petitions. There shall be no order as to costs. The parties to appear before the learned Trial Judge on 28th March, 2019 and

produce the authenticated copy of this order. The learned Trial Judge to endeavor to dispose of the suit and the counter-claim, as expeditiously as possible.

Sd/-
(M. S. SONAK, J.)