

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

WRIT PETITION NO.7875 OF 2016

Vijay Sabaji Warang

.. Petitioner

V/s.

Niyojit Shri Vinobha Bhawe Smruti
Sahakari Grahanirman Sanstha
Solapur and Ors.

.. Respondents

Mr.Machindra A. Patil for the petitioner

Mr.Surel S. Shah for the respondent nos.3A, 4A to 4E and 5

Mr.R.P.Kadam, A.G.P. for the respondent no.6

CORAM: K.K. TATED, J
DATED : FEBRUARY 26, 2019

P.C. :

1 Heard.

2 By this petition under Article 227 of the Constitution of India the Petitioner third party challenges the order dated 23.03.2016 passed by learned District Judge No.2, Solapur below Exhibit-44 in Civil Appeal No.279 of 2008 rejecting their Application under Order 1 Rule 10 of the Code of Civil Procedure, 1908 for joining him as a party in pending appeal.

3 In the present proceedings, Respondent no.1 original

plaintiff filed Special Civil Suit No. 877 of 1997 in the court of Joint Civil Judge, Senior Division, Solapur for specific performance of contract / declaration that the sale deed dated 18.11.1997 is void and not binding on them, for confirmation of plaintiff's possession and for injunction. That suit stands dismissed by judgment and decree dated 20.07.2013. Thereafter the Respondent original plaintiff preferred Civil Appeal No.279 of 2008. In that appeal, Petitioner filed Application under Order 1 Rule 10 of the Code of Civil Procedure, 1908 for joining him as a party on 29.02.2016. The appellate court dismissed Petitioner's Application on the ground that when the suit was filed by the plaintiff, at that time notice was published on 26.02.2002 in the daily newspaper Loksatta calling all the members of the Society to join themselves as a party in suit. At that time, some of the members of the society made Application and those Applications were allowed. Despite the said publication, Petitioner never came forward and sought permission of the court to get him impleaded as a party. He filed Application after more than 18 years. On the basis of these facts, the learned District Judge-2 Solapur dismissed the Petitioner's Application by order dated 23.03.2016 below Exhibit-44.

4 The learned counsel for the Respondent original defendant makes a statement that Civil Appeal No.279 of 2008 is kept for final hearing before appellate court on 05.03.2019.

5 Considering the reason given by the appellate court at the time of rejecting Petitioner's Application under Order 1 Rule 10 of the Code of Civil Procedure, 1908, as there was delay of more than 18 years on the part of Petitioner to make Application for joining him as party and as appeal itself is part heard and kept for further hearing on 05.03.2019, I do not find any reason to interfere in the present Writ Petition.

6 Hence, Writ Petition stands rejected.

7 No order as to costs.

(K.K. TATED, J.)